AUSTRALIAN ENERGY MARKET COMMISSION

RULE

## Rule determination

# National Electricity Amendment (Providing flexibility in the allocation of interconnector costs) Rule 2024


Proponents

The Honourable Chris Bowen MP, Minister for Climate Change and Energy
The Honourable Nick Duigan MLC, Minister for Energy and Renewables
The Honourable Lily D'Ambrosio MP, Minister for Energy and Resources



**3 October 2024**

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## About the AEMC

The AEMC reports to the energy ministers. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the energy ministers.

## Acknowledgement of Country

The AEMC acknowledges and shows respect for the traditional custodians of the many different lands across Australia on which we all live and work. We pay respect to all Elders past and present and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. The AEMC office is located on the land traditionally owned by the Gadigal people of the Eora nation.

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# Summary

1 The Australian Energy Market Commission (the AEMC or Commission) has decided to make a more preferable final rule (final rule) to introduce greater flexibility in allocating costs for critical interconnector projects across the National Electricity Market (NEM). This is in response to a rule change request submitted by the Honourable Chris Bowen MP, Federal Minister for Climate Change and Energy, The Honourable Lily D'Ambrosio MP, Victorian Minister for Energy and Resources, and The Honourable Nick Duigan MLC, Tasmanian Minister for Energy and Renewables (the Ministers).

2 There is broad consensus that transmission is a critical enabler for the transition to net zero, both in the NEM and the economy more broadly. This transition will require an unprecedented level of investment in, and build of, transmission infrastructure to deliver power from renewable generation and energy storage to consumers, and a need to deliver infrastructure quickly.

3 The Australian Energy Market Operator (AEMO) has identified new inter-regional transmission interconnectors as actionable and future investments, including Marinus Link, in its Optimal Development Path (ODP) for the NEM.

4 The rule change request proposes allowing for an agreement to be reached by governments on the allocation of interconnector costs where, absent such an agreement, the existing cost allocation framework would otherwise be a barrier to the interconnector's development. The rule change request suggests that the current regulatory framework is not sufficiently flexible to address barriers, such as cost recovery imbalances that could result in material electricity bill impacts in one jurisdiction over others, making it difficult for projects to proceed.

5 Given that transmission is a critical enabler of new low-cost generation and for the transition to net zero, the Commission considers that removing barriers to the delivery of net beneficial transmission infrastructure is in the long-term interests of consumers. Delayed or cancelled investment in transmission infrastructure required for the transition to net zero would be costly to consumers.

6 The Commission recognises the importance of transparency and considers that Ministers, using the pathway in this final rule, should communicate the benefits of any agreement to consumers in a timely way. This would complement the requirement in the final rule to publish an agreement made for the purposes of the final rule.

## Our final rule supports timely investment in and delivery of new inter-regional interconnectors by providing Ministers with the flexibility to address barriers to delivery

7 Our final rule provides a mechanism to address the risk that jurisdictions may not support net beneficial projects, potentially making it difficult for the projects to proceed. This could occur if consumers in one interconnected state were worse off, even where the totality of benefits to the NEM were positive. We have enabled this rule to apply to both government owned and funded assets as well as private infrastructure so that undesirable cost allocation outcomes can be addressed by Ministers separate from any planning and licensing approvals.

8 The final rule does not alter the existing pathway for interconnector cost allocation, but provides an alternative cost allocation mechanism which enables the implementation of an interconnector cost allocation agreement (agreement) made between Ministers in respect of a new regulated interconnector.

9 The final rule would not impact the total regulated revenue that a Transmission Network Service Provider (TNSP) would earn. However, an agreement would allow for a specified amount of a TNSP's total revenue to be collected through a TNSP in the counterparty government's NEM region. Projects would also still need to pass the Regulatory Investment Test for Transmission (RIT-T) and AEMO's feedback loop to ensure they generate net benefits for the NEM.

10 The final rule differs from the proposed rule through the addition of a number of implementation details, and through changes to the level and sequence of the Australian Energy Regulator's (AER's) involvement.

## Stakeholder support for transparency and the timely delivery of interconnector projects shaped our more preferable final rule

11 Industry, markets bodies and government stakeholders generally supported the intent of the draft rule, in which the Commission sought to balance the need for flexibility in order to facilitate delivery of interconnector projects, while supporting consumers' long-term interests and providing certainty for stakeholders. On the other hand, Nexa Advisory argued that facilitating agreements between governments will not accelerate the delivery of transmission projects nor provide investment certainty. Stakeholder views are discussed in further detail throughout the final rule determination.

12 We consider that our final rule strikes an appropriate balance between providing transparency to stakeholders by requiring, for example, the publication of agreements and granting jurisdictions sufficient flexibility to progress net beneficial interconnector projects. The Commission's approach will contribute positively to the delivery of net-beneficial projects, particularly actionable Integrated System Plan (ISP) projects, by removing a potential barrier to jurisdictional support of projects. A lack of support could impact required jurisdictional approvals.

## The Commission considers the final rule is in the long term interests of consumers

13 The Commission has considered the National Electricity Objective (NEO),[1] the revenue and pricing principles,[2] the issues raised in the rule change request, and submissions to the draft determination and assessed the final rule against four assessment criteria outlined below.

14 The final rule is likely to better contribute to achieving the NEO than the proposed rule by:

- **Supporting emissions reduction -** Our final rule determination provides flexibility in interconnector cost allocation, removing barriers to the timely delivery of net beneficial interconnectors which provide new interconnection between NEM regions. In turn, this increases the ability and timeliness of additional renewable energy generation to connect and therefore efficiently contributes to achieving government targets for reducing Australia's greenhouse gas emissions.
- **Promoting principles of market efficiency -** Our final rule determination supports the delivery of net beneficial interconnectors, which will enable additional generation assets to connect and reduce wholesale costs for consumers. It does this by providing a new pathway where governments would agree the specific cost allocation for the interconnector, while not altering the existing pathway in the NER for interconnector cost allocation where jurisdictions have not agreed to enter into an agreement.

1 Section 7 of the National Electricity Law (NEL).
2 Section 7A and 88B of the NEL.

- **Implementation considerations** - Our final rule determination supports timely delivery of interconnectors through the alternative cost allocation pathway by clarifying and specifying implementation matters, including requirements for a valid agreement as well as defined roles and processes. Our final rule supports the implementation of a successful market-wide solution by providing flexibility for an agreement to be made between two or more Ministers and requiring agreements to be published for transparency.
- **Promoting principles of good regulatory practice -** Our final rule determination reduces uncertainty by specifying and clarifying matters related to the application of agreements, including specifying that flexibility in the allocation of interconnector costs only applies to qualifying interconnectors, which are new regulated interconnectors or materially upgraded interconnectors. Our final rule also complements other reforms to promote the timely delivery of critical transmission projects, including other initiatives and new rules. We consider that the benefits of our final rule would outweigh the administrative costs.

## How our final rule would work

### A new pathway for interconnector cost allocation through agreements between governments

15 Our final rule determination provides flexibility in the allocation of interconnector costs. Our final rule does not alter the existing pathway for interconnector cost allocation and provides a new pathway that enables the implementation of agreements between governments.

16 Our final rule provides flexibility for two or more Ministers to make an agreement. The parties to an agreement could be either:

- each relevant Minister for the regions that are interconnected by the relevant interconnector; or
- each relevant Minister for the regions that are interconnected by the relevant interconnector and any other Minister of a participating jurisdiction that voluntarily agrees to be part of the agreement.

17 To be implemented, an agreement must satisfy a minimum set of implementation criteria.

18 Our final rule would:

- apply for interconnectors providing prescribed transmission services that are new or materially upgraded
- apply for interconnectors currently providing market network services that convert to providing prescribed transmission services
- allow an agreement to remain in place for the period of time agreed by the relevant Ministers
- work for both TNSPs and Intending TNSPs.

19 Our final rule also facilitates jurisdictions amending their original agreements, so long as the amended agreement satisfies all the implementation criteria applicable to new agreements.

20 Our final rule clarifies implementation matters in specific jurisdictions:

- Victoria is an adoptive jurisdiction, but our final rule applies in Victoria without modification to AEMO's functions since it can apply to AEMO as Co-ordinating Network Service Providers (CNSPs) in the same way as it applies to CNSPs in other jurisdictions in the NEM.
- If the Australian Capital Territory (ACT) is within a region that is responsible for a transfer of costs (New South Wales (NSW)), the ACT Minister must be consulted on the agreement (or an amendment to the agreement), but does not need to be party to the agreement.

### Roles and processes related to interconnector cost allocation agreements

21 Our final rule determination enables governments to provide agreements to TNSPs and CNSPs and includes timing requirements that facilitate TNSPs and CNSPs meeting their regulatory obligations.

22 An agreement will not impact the total regulated revenue that a TNSP would receive. Total regulated revenue for each TNSP, inclusive of revenue associated with the relevant interconnector, will continue to be determined by the AER in the normal manner every five years. However, an agreement will allow for a specified amount of a TNSP's total revenue to be collected from a CNSP in the counterparty government's NEM region. That CNSP will collect the additional revenue required from their customers. Conversely, TNSPs for regions receiving payments from the interconnected region will make corresponding deductions to the revenue recovered from their customers.

23 The agreements will set out the relative contributions of the jurisdictions (by determining the 'interconnector transfer amount' or the manner in which this amount is to be calculated). TNSPs and CNSPs will then be required to reflect the agreement into their amended or proposed pricing methodologies before submitting these to the AER, either as part of a revenue determination process or part way through a regulatory control period.

24 The final rule requires the AER to assess whether an agreement meets the implementation criteria and whether the amendments to pricing methodologies provide for recovery from the appropriate region of interconnector transfer amounts in accordance with the requirements of chapter 6A of the NER. The AER will not assess the merits of an agreement. The final rule also makes provision for where the pricing methodology has not received final approval in time to set the forthcoming year's transmission prices.

25 To give effect to an agreement, CNSPs will amend their pricing methodologies to include the interconnector transfer amount as part of the total regional annual aggregate revenue requirement (AARR). The final rule introduces the term total regional AARR to define the total amount that a CNSP for a region is responsible for allocating. The total regional AARR includes the interconnector transfer amount (when there is an agreement in place), as well as the AARR of the CNSP, the AARR of each other TNSP in the region, and any allocation agreed between CNSPs under clause 6A.29.3. The interconnector transfer amount affects total regional AARR by increasing it in one region and decreasing it in another, but does not change the ratios used to allocate total regional AARR to each category of prescribed transmission services.

26 The final rule also provides for adjustments to avoid double counting and other distortions, including providing jurisdictions with the discretion to specify which transmission system assets are effectively removed from the calculation of modified load export charges (MLEC). The final rule does not provide for alterations to the current manner in which settlement residue auction proceeds are distributed under the NER.

27 The final rule diverges from the rule change request by incorporating a number of implementation details that were not originally considered in the Ministers' proposal. The final rule requires affected TNSPs to commence the process of implementing an agreement by submitting it to the AER along with its pricing methodology. This removes unnecessary procedural steps, and better reflects the AER's limited role in implementing transmission pricing. The final rule also diverges from the proposal by providing flexibility for jurisdictions to either submit agreements to TNSPs for incorporation as part of their revenue determination process, or to submit them during a regulatory control period.

## The final rule commences 3 July 2025

28 We have brought forward the commencement date for the final rule to 3 July 2025 so it can be available for the 2026-2027 financial year as the first implementation year under an agreement.

29 Our final rule includes transitional requirements for the AER to review and, where it considers necessary or desirable, amend and publish its pricing methodology guidelines and information guidelines. The AER would need to complete these reviews by 3 July 2025.

30 The final rule will commence after these guidelines have been reviewed and updated, meaning that agreements could use the framework introduced by the final rule from 3 July 2025. This would enable a first implementation year of 1 July 2026 - 30 June 2027. If so, relevant TNSPs would be required to submit revised pricing methodologies to the AER by 1 October 2025.

## Key differences between the draft and final rules

31 We have made changes to the final rule following stakeholder feedback on the draft determination and draft rule. The final rule:

- Makes clarifying amendments to clause S6A.4.2 NER, which modifies the application of chapter 6A to transmission services provided by the declared transmission system of an adoptive jurisdiction (i.e. in Victoria). These amendments clarify the operation of the rule for AEMO in its role as CNSP in an adoptive jurisdiction.
- Requires the AER to complete any required updates to its guidelines by 3 July 2025.
- Brings forward the rule commencement date to 3 July 2025.
- Waives consultation requirements for AEMO if amendments to its revenue methodology are needed to take the final rule into account.
- Clarifies that jurisdictions will need to provide new or amended agreements to the relevant TNSPs and CNSPs within sufficient time to enable those TNSPs and CNSPs to meet the various regulatory time constraints around submitting pricing methodology applications.
- Introduces the new term 'total regional AARR' to distinguish between the AARR for an individual TNSP and the total AARR that a CNSP needs to allocate for an entire region. The total regional AARR includes an interconnector transfer amount.
- Clarifies that the interconnector transfer amount is to be included in the total regional AARR but does not change the ratios in which the total regional AARR is to be allocated to each category of prescribed transmission services.
- Clarifies the purpose of specifying transmission system assets in an agreement, which is to provide jurisdictions the discretion to set the optimised replacement cost of those assets to zero for the purposes of MLEC calculations. The assets specified in an agreement, if any, are effectively removed from MLEC calculations for the regions interconnected by the specified interconnector. This mitigates the risk that the MLEC charges associated with those assets unwind the agreed cost allocations.

# Contents

## Tables



## Figures

# 1 The Commission has made a final determination

This final rule determination is to make a more preferable final rule in response to a rule change request submitted by The Honourable Chris Bowen MP, Federal Minister for Climate Change and Energy, The Honourable Lily D'Ambrosio MP, Victorian Minister for Energy and The Honourable Nick Duigan MLC, Tasmanian Minister for Energy and Renewables (the Ministers). The more preferable final rule is referred to as the 'final rule' in this determination.

For more detailed information on:

- why we made the final rule, refer to chapter 2
- how our final rule will work, refer to chapter 3 and chapter 4 and Appendices D and E.
- the rule change request and background context, refer to Appendix A.

## 1.1 Our final rule will provide flexibility in the allocation of interconnector costs

The proponents have identified cost allocation issues that impact the ability of TNSPs and jurisdictions to progress interconnector projects which are net beneficial through the regulatory framework. The Ministers argued that jurisdictions should have the flexibility to address issues that cannot otherwise be addressed through the existing cost allocation framework for interconnectors in the NER and associated guidelines.

The proponents identified the following issues with the existing regulatory framework:

- The existing rules are unclear or inapplicable for interconnectors spanning Commonwealth waters.
- The cost recovery of an interconnector may result in a material bill impact to one or both jurisdictions' electricity consumers.
- Jurisdictional agreement and support may be required to address uncertainty and enable Nationally Significant Transmission Projects to proceed.

The NEM is undergoing a once in a generation transformation as it transitions to net zero, underpinned primarily by renewable forms of electricity generation and storage. AEMO's ISP has identified an ODP for the transmission system, including a number of interconnector projects.

These interconnectors are necessary to enhance or provide new interconnection between NEM regions. As a result, these interconnectors will provide net benefits to consumers and play an essential role in the optimal development of the transmission system.

The final rule provides flexibility in the allocation of interconnector costs. Our final rule does not alter the existing pathway for interconnector cost allocation and provides a new pathway that enables the implementation of interconnector cost allocation agreements (agreements) between governments.

See chapter 3 and chapter 4 for a detailed description of our final rule.

## 1.2 Our final rule was shaped by stakeholder support for transparency and the timely delivery of interconnector projects

Industry, market bodies and government stakeholders generally supported the intent of the draft rule, in which the Commission sought to balance the need for flexibility in order to facilitate delivery of interconnector projects, while supporting consumers' long-term interests and providing certainty for stakeholders.[3]

Nexa Advisory argued that facilitating agreements between governments will not accelerate the delivery of transmission projects nor provide investment certainty. It recommended placing greater obligations on governments to improve the deliverability of projects that contribute to the optimal development of the system.[4]

We consider that the Commission's approach will contribute positively to the delivery of net-beneficial projects by removing a potential barrier to jurisdictional support of projects. A lack of support could impact required jurisdictional approvals.

The AER supported the mechanistic and procedural agreement implementation role provided for them in the draft determination.[5] This includes the proposed process, timeframes, and incorporation of implementation criteria in the NER. Consistent with the draft rule, our final rule does not require the AER to assess the merits of an agreement. The Tasmanian Government's Department of State Growth: Renewables Climate and Future Industries Tasmania (Tasmanian Government) and the Energy Networks Australia (ENA) also supported this approach.[6]

AEMO, in its capacity as planner for the Victorian Shared Declared Network and the CNSP for the Victorian region, considered that improvements could be made to the operation of the draft rule, including recovery of the interconnector transfer amount as an adjustment to the prescribed common services revenue requirement.[7] We considered these recommendations and have provided further clarity on the allocation of the interconnector transfer amount to the categories of prescribed transmission services. This ensures that the rule can be implemented by CNSPs in line with the policy intent. We do not consider, though, that the interconnector transfer amount should be recovered through adjustments to common services due to its potentially distortionary effect to the balance of locational and non-locational charges. These matters are discussed further in chapter 4.

The Tasmanian Government, Energy Users Association of Australia (EUAA) and APA supported the draft determination, but considered that transitional arrangements are necessary so that an agreement could apply to Basslink from 1 July 2025: its first year as a regulated asset if the AER approves its conversion request.[8] For reasons outlined in section 3.2, we do not consider that a specific transitional arrangement for Basslink is beneficial. If converted, Basslink would satisfy the definition of a qualifying interconnector, meaning the agreement pathway would be available in later years of the regulatory period, if desired. We propose an earlier commencement date for the rule to support an agreement applying from 1 July 2026.

3 Submissions to the draft determination: Australian Energy Regulator (AER), p. 1; Australian Energy Market Operation (AEMO), p. 1; Energy Users Association of Australia (EUAA), p. 1; Department of State Growth: Renewables Climate and Future Industries Tasmania (Tasmanian Government); p. 1; Energy Networks Australia (ENA), p. 1; APA, p. 1.

4 Submission to the draft determination: Nexa Advisory, p. 2.

5 Submission to the draft determination: AER, p. 1.

6 Submissions to the draft determination: Tasmanian Government, p. 1; ENA, p. 1.

7 Submission to the draft determination: AEMO, pp. 1-3.

8 Submissions to the draft determination: Tasmanian Government, pp. 1-2; EUAA, pp. 1-2; APA, pp. 1-2.

Similarly, the ENA proposed constraining the definition of a qualifying interconnector where it concerns interconnectors that are the subject of a material upgrade, and also proposed restricting which assets could be set to zero value for the purpose of calculating MLEC.[9] We do not consider that the changes suggested by the ENA are necessary. On the first, we consider there is a risk of unintended consequences from attempting to specify additional criteria for what constitutes a material upgrade and agreements will need to be published, providing transparency. On the second, we consider that retaining flexibility for jurisdictions to determine and negotiate which assets to include in an agreement for the purposes of calculating MLEC is more likely to result in projects proceeding than would be the case with a more constrained approach. The AER also considered that the criterion relating to material upgrades may be unclear, but noted the risk to consumers is relatively low and requested further guidance on the interpretation of this criterion.[10] This is discussed further in section 3.2.

For more detailed information on stakeholder feedback, refer to chapter 3 and chapter 4.

## 1.3 Our determination will promote timely investment decisions on critical transmission projects

There is broad consensus that transmission is a critical enabler for the transition to net zero, both in the NEM and the economy more broadly. This transition will require an unprecedented level of investment in, and build of, transmission infrastructure to deliver power from renewable generation and energy storage to consumers, and a need to deliver infrastructure quickly.

Our final rule will provide flexibility for net beneficial interconnector projects to be developed that otherwise may not have progressed due to barriers under the current regulatory framework. Delayed or cancelled investment in transmission infrastructure required for the transition to net zero would be costly to consumers. AEMO's 2024 ISP states that delivering the transmission component of the plan would save consumers billions in avoided costs and deliver emissions reductions.[11]

Other policy and regulatory work is underway to promote the timely delivery of transmission projects. Our final rule complements other rule changes and initiatives, as explained in section 3.4.

9 Submissions to the draft determination: ENA, pp. 2-3.

10 Submission to the draft determination: AER, p. 1.

11 AEMO, 2024 Integrated System Plan, p. 6. Available at https://aemo.com.au/-/media/files/major-publications/isp/2024/2024-integrated-system-plan-isp.pdf?la=en.

# 2 The rule will contribute to the energy objectives

## 2.1 The Commission must act in the long-term interests of energy consumers

The Commission can only make a rule if it is satisfied that the rule will or is likely to contribute to the achievement of the relevant energy objectives.[12]

For this rule change, the relevant energy objective is the NEO:

The NEO is:[13]

> to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to—
>
> (a) price, quality, safety, reliability and security of supply of electricity; and
>
> (b) the reliability, safety and security of the national electricity system; and
>
> (c) the achievement of targets set by a participating jurisdiction—
>
> (i) for reducing Australia's greenhouse gas emissions; or
>
> (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NEO.[14]

## 2.2 We must also take these factors into account

### 2.2.1 We have considered whether to make a more preferable rule

The Commission may make a rule that is different, including materially different, to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule is likely to better contribute to the achievement of the NEO.[15]

For this rule change, the Commission has made a more preferable final rule. The reasons are set out in section 2.3 below.

### 2.2.2 We have considered the revenue and pricing principles for this rule change

We also have to take into account the revenue and pricing principles when making rules for or with respect to transmission system revenue and pricing.[16]

In making this final rule determination, the Commission has considered the following aspects of transmission system revenue and pricing to be most relevant:

- The regulation of prices charged or that may be charged by owners, controllers or operators of transmission systems for the provision by them of services that are the subject of a transmission determination.[17]

12 Section 88(1) of the NEL.
13 Section 7 of the NEL.
14 Section 32A(5) of the NEL.
15 Section 91A of the NEL.
16 The revenue and pricing principles are set out in section 7A of the NEL.
17 Schedule 1 item 16(1) of the NEL.

- The regulation of prices that AEMO charges or may charge for the provision of shared transmission services.[18]
- The economic framework, mechanisms or methodologies to be applied or determined by the AER for the purposes of items 15 and 16 including (without limitation) the economic framework, mechanisms or methodologies to be applied or determined by the AER for the derivation of the revenue (whether maximum allowable revenue or otherwise) or prices to be applied by the AER in making a transmission determination.[19]

The Commission has taken into account these principles in making this final determination and rule. The final rule promotes these principles because our final rule does the following:

- Where an agreement has been made between two or more Ministers and has been validated by the AER, the final rule specifies the regulatory arrangements for incorporating the agreement into transmission pricing for the purpose of giving effect to the allocation agreed by the Ministers. This includes the prices that AEMO may charge for the provision of prescribed shared transmission services from interconnectors relating to Victoria.
- Provides discretion for TNSPs to amend their pricing methodologies to incorporate a valid agreement that amends how much revenue TNSPs collect from consumers in their respective regions and to provide the amended pricing methodology to the AER for approval. The AER must assess whether the TNSPs' proposed amendments to their pricing methodologies comply with the requirements of the rules, and if so, approve these amendments.

### 2.2.3 The final rule will not apply in the Northern Territory

The rule will not apply in the Northern Territory, as it amends provisions in chapter 6A of the NER, which does not apply in the Northern Territory.[20]

See Appendix C for more detail on the legal requirements for our decision.

### 2.2.4 The final rule will apply in Victoria

Given that Victoria is an adoptive jurisdiction, chapter 6A of the NER applies differently in Victoria, compared to other jurisdictions in the NEM. However, the final rule will apply in Victoria without modification to AEMO's functions since it can apply to AEMO (in its capacity as the CNSP in Victoria) in the same way it applies to CNSPs in other regions.

The final rule makes clarifying amendments to clause S6A.4.2 NER, which modifies the application of chapter 6A to transmission services provided by the declared transmission system of an adoptive jurisdiction (i.e. in Victoria). These amendments clarify the operation of the rule for AEMO in its role as CNSP in an adoptive jurisdiction.

In addition, the final rule makes minor amendments to reflect the movement of clauses throughout chapter 6A, update terminology introduced by the final rule, fix minor errors, and to improve readability of the NER.[21]

See chapter 3 for more detail on the application of the final rule to AEMO in Victoria.

18 Schedule 1 item 16(2) of the NEL.

19 Schedule 1 item 20 of the NEL.

20 Under the NT Act and its regulations, only certain parts of the NER have been adopted in the Northern Territory. The version of the NER that applies in the Northern Territory is available on the AEMC website at: https://energy-rules.aemc.gov.au/ntner.

21 Final rule, clauses S6A.4.1, S6A.4.2 and 6A.29.1(b).

## 2.3 How we have applied the legal framework to our decision

The Commission must consider how to address barriers that may impact the delivery of net beneficial interconnectors against the legal framework.

We identified the following criteria to assess whether the proposed rule change, no change to the rules (business-as-usual), or other viable, rule-based options are likely to better contribute to achieving the NEO:

- **Emissions reduction:** Would the rule change efficiently contribute to achieving government targets for reducing, or that are likely to reduce, Australia's greenhouse gas emissions?
- **Principles of market efficiency:** Would the rule change support market efficiency by supporting the delivery of net beneficial interconnectors, which will enable additional generation assets to connect and reduce wholesale costs for consumers?
- **Implementation considerations:** Would the rule change assist in timely delivery and implementation of a successful market wide solution?
- **Principles of good regulatory practice:** Would the rule change reduce uncertainty and complement other reforms underway?

These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request, for impacts within the scope of the NEO. Our reasons for choosing these criteria are set out in section 4.2 of the consultation paper.

The Commission has undertaken a regulatory impact analysis to evaluate the impacts of the various policy options against the assessment criteria. Appendix B outlines the methodology of the regulatory impact analysis.

The rest of this section explains why the final rule best promotes the long-term interest of consumers when compared to other options and assessed against the criteria.

### 2.3.1 Contribution to achieving government targets for reducing greenhouse gas emissions

Our final rule will provide flexibility in interconnector cost allocation, removing barriers to the timely delivery of net beneficial interconnectors which are a critical enabler of the transition to net zero by enhancing or providing new interconnection between NEM regions. Our final rule will therefore efficiently contribute to achieving government targets for reducing Australia's greenhouse gas emissions. For example, our final rule will contribute to achieving:

- the Commonwealth Government's 2030 target of 43 per cent below 2005 emissions levels
- Commonwealth and state government renewable energy targets, for example, the Commonwealth's commitment to a national renewable energy target of 82 per cent by 2030.

These targets are identified in the targets statement published by the Commission. It does this by supporting the timely delivery of critical interconnector infrastructure required to facilitate the transition to a net zero energy system.

Our final rule will provide an alternate pathway to deliver projects that might otherwise not be developed. For example, Project Marinus is identified in AEMO's 2024 ISP as an actionable ISP project on the ODP as it contributes to achieving current environmental policies including net zero targets. This includes the Marinus Link interconnector (Stages 1 and 2).[22] Compared to business as usual, our final rule facilitates the emissions reduction benefits of the Marinus Link

22 AEMO, 2024 Integrated System Plan, p. 14. Available at https://aemo.com.au/-/media/files/major-publications/isp/2024/2024-integrated-system-plan-isp.pdf?la=en.

interconnector project which enables additional renewable energy generation to connect to the NEM.

### 2.3.2 Promoting principles of market efficiency

Our final rule promotes principles of market efficiency by supporting the delivery of net beneficial interconnectors, which will enable additional generation assets to connect and reduce wholesale costs for consumers. Our final rule will do this by:

- providing a new pathway where governments would agree the specific cost allocation for the interconnector; and
- not altering the existing pathway in the NER for interconnector cost allocation where jurisdictions have not agreed to enter into an agreement on the allocation of interconnector costs.

### 2.3.3 Supporting implementation considerations

Our more preferable final rule is likely to better contribute to the achievement of the national electricity objective than the proposed rule because it will assist in the timely delivery of interconnectors through an alternative pathway by specifying the implementation matters outlined below.

- Requiring that a set of implementation criteria must be satisfied for an agreement to be valid and able to be implemented by the relevant TNSPs and CNSPs in transmission pricing. Our final rule is more preferable as it amends some criteria proposed in the rule change proposal and includes additional criteria to facilitate implementation within existing regulatory processes.[23] It also sets out these criteria in the rules rather than in guidelines as proposed in the rule change request.
- Clarifying that the relevant Ministers would need to submit a valid and implementable agreement to the TNSP and each specified CNSP at least nine months before the start of the first implementation year of the agreement. Our final rule is more preferable as it provides more detail on this timing than the rule change proposal.[24] The timing is important to facilitate the agreement being implemented in transmission pricing, which has specified timing requirements in the NER.
- Clarifying that an agreement remains in place for the life of the asset unless otherwise agreed by the relevant Ministers, as per the rule change request. Our final rule requires that an agreement specify the first and last implementation years in which it would apply.[25]
- Specifying the responsibilities of Ministers, TNSPs, CNSPs and the AER, as detailed in chapter 3 and chapter 4 of this final rule determination. Our final rule is more preferable than the rule change proposal as it specifies how the cost allocation agreed under the agreement is to implemented into pricing and the associated roles and responsibilities of all relevant parties, including TNSPs, CNSPs and the AER. Between the draft and final rules, we provided further clarity regarding the allocation of the interconnector transfer amount to each category of prescribed transmission services.[26]
- Clarifying that an agreement can be amended by the relevant Ministers if it continues to satisfy all of the implementation criteria. Our final rule is more preferable than the rule change

23 Final rule, clause 6A.29.4(b).
24 Final rule, clauses 6A.29.4(b)(7)(iv) and 6A.15.2(a)(3).
25 Final rule, clause 6A.29.4(7)(iv).
26 Final rule, clause 6A.22.2, 6A.22.3, 6A.22.5 and 6A.23.2.

proposal as it details requirements to notify the TNSP and CNSP of an amendment to an agreement, and where applications must be made by the TNSP or may be made by the CNSP, to the AER, to amend their respective pricing methodologies.[27]

- Introducing a new term 'total regional AARR' to distinguish between the aggregate annual revenue requirement (AARR) for an individual TNSP and the total amounts that a CNSP needs to allocate for a region, which includes the interconnector transfer amount, as well as the AARR of the CNSP, the AARR of each other relevant TNSP, and any allocation agreed between CNSPs under clause 6A.29.3.[28]
- Clarifying that our final rule applies in Victoria as an adoptive jurisdiction without modification to AEMO's functions since it can apply to AEMO (as the CNSP in Victoria) in the same way it applies to CNSPs in other regions.[29] However, the final rule amends the provision that stated that AEMO's pricing methodology must be designed to recover no more than its maximum allowed revenue (MAR) for the provision of prescribed shared transmission services to clarify that, as the CNSP for the Victorian region, AEMO will need to recover the total regional AARR, although its MAR will continue to be only for the provision of prescribed shared transmission services.[30] The final rule also includes a transitional provision that waives the requirement for AEMO to undertake public consultation if amendments to its revenue methodology are required to account for this rule.[31]
- Requiring the AER to review, and if necessary, update relevant guidelines, including the Pricing Methodology Guidelines and Information Guidelines, to reflect the requirements of the final rule. This is consistent with the rule change proposal, which proposed that AER guidelines would need to be amended.[32] The AER is required to do this by 3 July 2025.[33]

Our final rule supports the implementation of a successful market-wide solution as outlined below.

- Providing flexibility for an agreement to be made between two or more Ministers. The parties to the agreement must comprise each relevant Minister for each region interconnected by the specified interconnector and, if applicable, each relevant Minister for any other region for which an amount specified under the agreement is to be allocated by the CNSP for the region.[34] This is more preferable than the rule change proposal which proposed that agreements could only be made by the relevant Ministers for each region interconnected by the specified interconnector.
- Requiring the AER to publish agreements to provide transparency for consumers on interconnector cost allocation between jurisdictions.[35] The Commission also recommends that jurisdictions explain the benefits to affected consumers.
- Bringing forward the commencement date of the final rule from 12 September 2025 to 3 July 2025 to make the new pathway available sooner.[36]

27 Final rule, clauses 6A.29.4(j) and (k) and 6A.15.2.
28 Final rule, clause 6A.22.5.
29 NER clause S6A.4.2.
30 Final rule, clause S6A.4.2(f)(1)(b), as modified by clause S6A.4.2(k)(1.).
31 Final rule, clause 11.175.3.
32 Rule change request (Providing flexibility in the allocation of interconnector costs), p. 6.
33 Final rule, clause 11.175.2.
34 Final rule, clause 6A.29.4(b)(5).
35 NER clause 6A.11.3(a) already requires information submitted with a pricing methodology to be published, and final rule clause 6A.15.2(c).
36 National Electricity Amendment (Providing flexibility in the allocation of interconnector costs) Rule 2024 No. 18, clause 2.

### 2.3.4 Promoting principles of good regulatory practice, including complementing other reforms underway

**Our final rule will reduce uncertainty by specifying or clarifying the matters outlined below.**

- Clarifying that flexibility in the allocation of interconnector costs only applies to qualifying interconnectors, which are new regulated or materially upgraded interconnectors,[37] or any existing market network service provider (MNSP) that intends to reclassify its network services as prescribed transmission services to become a regulated interconnector. This is more preferable than the rule change request which proposed to apply to all interconnectors.
- Requiring that an interconnector agreement must identify the interconnector that it relates to (i.e. the specified interconnector) as well as the transmission system assets that are used for the purposes of calculating the modified load export charges that are payable by or to the CNSPs for the regions that are interconnected by the specified interconnector.[38]
- Requiring that where an agreement applies to the NSW region (which contains the ACT jurisdiction) the agreement must contain a statement confirming that the ACT Minister has been consulted about the agreement, and any amendment to the agreement. However, the ACT Minister does not need to be a party to the agreement.[39]
- Confirming that the final rule can apply to Intending TNSPs.

**Our final rule complements other reforms to promote the timely delivery of critical transmission projects**, including the following new rules and other initiatives:

- The Commonwealth's $20 billion low cost finance Rewiring the Nation plan to upgrade Australia's electricity grids. The Clean Energy Finance Corporation (CEFC) is the financing body for the plan.[40]
- Agreement by the Energy and Climate Change Ministerial Council Meeting (ECMC) to develop the Nationally Significant Transmission Projects Framework.[41]
- The Commission recent electricity rules, which came into effect on 29 March 2024, as detailed below.
  - The new rule for *Sharing concessional finance benefits with consumers (ERC0349)* provides a mechanism to enable the benefits of concessional finance provided by governments to flow through to reduced interconnector charges for customers. Our final rule will provide a new mechanism for allocating those reduced charges between interconnected regions.
  - The new rule for *Accommodating financeability in the regulatory framework (ERC0348)* improves the ability of TNSPs (including interconnectors) to efficiently raise finance, where needed, to deliver actionable ISP projects in a timely and efficient way.
- The Commission also undertook the *Transmission Planning and Investment Review* in 2022-23 to examine short, medium and long-term improvements to the regulatory framework and several rule changes have been initiated or completed as a result of that work.

37 See chapter 3 for detail on what is defined as a new regulated interconnector under our final rule.

38 Final rule, clause 6A.29.4(b)(2) and (b)(7)(i).

39 Final rule, clause 6A.29.4(b)(9).

40 The Commonwealth and Victorian Governments have announced that Marinus Link will receive concessional debt financing through Rewiring the Nation, subject to the CEFC's statutory decision-making process. See The Hon Chris Bowen MP, Minister for Climate Change and Energy, Joint media release: Investing in the future of Tasmanian energy with Marinus Link, 3 September 2023. Available at https://minister.dcceew.gov.au/bowen/mediareleases/joint-media-release-investing-future-tasmanian-energy-marinus-link#:~:text=Marinus%20Link%27s%20latest%20cost%20estimates,to%20be%20%24106%2D117%20million.

41 ECMC, Meeting Communique, 24 November 2023.

- PIAC (now Justice and Equity Centre) has submitted a rule change request which proposes changes to the allocation of interconnector costs to align with a beneficiary pays principle.[42] PIAC's rule change proposes a holistic review of the standard allocation of transmission projects costs on the basis of energy flows. That rule change does not consider whether jurisdictions require flexibility to make agreements on cost allocation outside of the standard cost allocation framework, which the Ministers' rule change seeks to provide. The Commission decided to proceed first with the Ministers' rule change because it addresses a different and more urgent challenge associated with the distributional impacts of cost allocation that could delay or be a barrier to delivering required interconnectors.

**We consider that the benefits of our final rule will outweigh the administrative costs.** Our final rule addresses barriers that may impact the delivery of net beneficial interconnectors. This outweighs the increased administrative burden on governments developing an agreement, the AER in validating an agreement and TNSPs and the AER incorporating an agreement into pricing processes.

42 Public Interest Advocacy Centre, Transmission pricing rule change request, 23 February 2024, p. 1. Available at https://www.aemc.gov.au/rule-changes/allocation-coststransmission-projects.

# 3 How our final rule will operate - a new framework for interconnector cost allocation

This chapter sets out how our final rule will operate in terms of general matters relating to the new interconnector cost allocation framework. Chapter 4 sets out how our final rule will operate in terms of processes and roles.

### Box 1: Summary of final rule determination - a new framework for interconnector cost allocation

Our final rule determination provides flexibility in the allocation of interconnector costs. Our final rule does not alter the existing pathway for interconnector cost allocation and provides a new pathway that enables the implementation of an agreement between governments.

Our final rule provides flexibility for two or more Ministers to make an agreement. The parties to an agreement could be either:

- each relevant Minister for the regions that are interconnected by the relevant interconnector; or
- each relevant Minister for the regions that are interconnected by the relevant interconnector and any other Minister of a participating jurisdiction that voluntarily agrees to be part of the agreement.

To be implemented, an interconnector cost allocation agreement must satisfy a minimum set of implementation criteria.

Our final rule will:

- apply to interconnectors that are new or materially upgraded
- apply to interconnectors currently providing market network services that convert to regulated interconnectors
- allow an agreement to remain in place for the period of time agreed by the relevant Ministers
- work for both TNSPs and Intending TNSPs.

Our final rule clarifies implementation matters in specific jurisdictions:

- Our final rule can apply in Victoria without modification to AEMO's functions since it can apply to AEMO as CNSP in the same way as it applies to CNSPs in other jurisdictions in the NEM.
- If the ACT is within a region that has a CNSP responsible for a transfer of costs (NSW), the ACT Minister must be consulted on the agreement (or an amendment to the agreement), but does not need to be party to the agreement.

Our final rule includes transitional requirements for the AER to review and, where it considers necessary or desirable, amend and publish its pricing methodology guidelines and information guidelines. The AER would need to complete these reviews by 3 July 2025 . The final rule will commence on **3 July 2025** after these guidelines have been revised.

**Changes from draft to final rule:**

- Makes clarifying amendments to clause S6A.4.2 NER, which modifies the application of chapter 6A to transmission services provided by the declared transmission system of an adoptive jurisdiction (i.e. in Victoria). These amendments clarify the operation of the rule for AEMO in its role as CNSP in an adoptive jurisdiction.[A]
- Requires the AER to complete any required updates to its guidelines by 3 July 2025.[B]
- Brings forward the rule commencement date to 3 July 2025.[C]

- Waives consultation requirements for AEMO if amendments to its revenue methodology are needed to take the final rule into account.[D]

Note: [A] Final rule, clauses 6A.29.1(b) and S6A.4.2.
Note: [B] Final rule, clause 11.175.2.
Note: [C] National Electricity Amendment (Providing flexibility in the allocation of interconnector costs) Rule 2024 No.18, clause 2.
Note: [D] Final rule, clause 11.175.3.

## 3.1 Providing a new pathway for interconnector cost allocation and not altering the existing pathway

**Box 2: Final rule determination - our final rule provides two potential pathways to determine interconnector cost allocation**

Our final rule will:

- **not alter the existing pathway for interconnector cost allocation:** not change the existing interconnector cost allocation framework in the NER where jurisdictions have not agreed to enter into an agreement on the allocation of interconnector costs.
- **provide a new alternative pathway for interconnector cost allocation:** where agreements are entered into between governments, those agreements would override elements of the NER that would otherwise prescribe the cost allocation method.

Our final rule provides flexibility for two or more Ministers to make an agreement and includes a set of minimum implementation criteria (see Box 3) that an agreement must satisfy in order to be implemented. This reduces uncertainty by specifying and clarifying matters related to the application of agreements.

**Changes from draft to final rule:**

- None

The Ministers considered that the current cost allocation framework for transmission in the NER and associated AER guidelines is not sufficiently flexible to address unique scenarios, for example where an interconnector would have disproportionately adverse price consequences for a State or Territory's household or businesses.[43] To address this issue, the Ministers proposed providing flexibility for governments to enter into agreements on interconnector cost allocation and to have those agreements implemented.[44]

Stakeholders considered that the existing regulatory arrangements are not sufficiently flexible to provide cost allocation outcomes that are acceptable to electricity consumers in different regions. Energy Networks Australia (ENA) considered that Marinus Link may not proceed for this reason.[45] Stakeholders supported providing a new pathway for an agreement to be made between jurisdictions, to ensure that net beneficial interconnector projects are delivered.[46] The Tasmanian Government noted that the Commission's approach will enable proposed cost allocation arrangements between Tasmania and Victoria for Marinus Link to be implemented.[47]

43 Rule change request, p. 4.
44 Rule change request, p. 6.
45 Submission to the consultation paper: ENA, p. 3.
46 Submissions to the draft determination: AER, p. 1; AEMO, p. 1; EUAA, p. 1; Tasmanian Government, p. 1; ENA, p. 1; APA, p. 1. Submissions to the consultation paper: AEMO, p. 3; Marinus Link Pty Ltd, p. 2; Transgrid, p. 1; ENA, p. 3.

We consider that, with the rapid expansion and volume of transmission projects to be developed to support the transition of the NEM, unique circumstances may delay or prevent the delivery of net beneficial interconnectors under the existing regulatory framework. Our final rule addresses this issue by providing governments with the flexibility to agree to alternative interconnector cost allocation arrangements. This supports timely delivery of interconnector infrastructure, enabling additional generation assets to connect and reducing wholesale costs for consumers.

Nexa Advisory considered a new pathway may not result in more timely delivery of interconnector projects nor create certainty and confidence for investors.[48] We consider that our final rule will increase the likelihood that net beneficial projects would be delivered by creating an additional pathway to allocate interconnector costs. The existing pathway in the NER will remain for those projects that can proceed where an agreement is not required or desired. This provides an appropriate amount of flexibility for governments to make agreements in certain circumstances and for projects to progress. This provides certainty for stakeholders, including investors, that there are multiple pathways available to minimise the risk that net beneficial projects are not delivered.

The Commission recognises the importance of transparency and considers that Ministers using this new alternative pathway for interconnector cost allocation should communicate the benefits of any agreement to consumers in a timely way.

Projects would also still need to pass the Regulatory Investment Test for Transmission (RIT-T) and AEMO's feedback loop to ensure they generate net benefits for the NEM.[49]

### 3.1.1 The parties to the agreement are the relevant Ministers in the regions where the interconnector is located or costs are to be allocated

Under our final rule, the parties to an agreement could be either:[50]

- each relevant Minister for the regions that are interconnected by the relevant interconnector ; or
- each relevant Minister for the regions that are interconnected by the relevant interconnector as well as any other Minister of a participating jurisdiction that voluntarily agrees to be part of the agreement.

The regions interconnected by the relevant interconnector are those regions where the interconnector specified in the agreement is located.[51]

The term 'relevant Minister' defines when a Minister would be the Minister for a region.[52] Neither the Commonwealth nor ACT Ministers will be a 'relevant Minister' for any region for the purposes of this rule. In practice, this means that unless regional boundaries change, there will be one relevant Minister for each region that is required to be party to the agreement, since the regional boundaries currently align with jurisdictional boundaries. However, our final rule provides flexibility for governments of regions that are not required to be a party, including the Commonwealth Government, to become a party to the agreement. For example, there may be circumstances where the customers in a third jurisdiction are key beneficiaries of an interconnector between two other jurisdictions. In this circumstance, the Minister for the third jurisdiction may want to sign

47 Submission to the draft determination: Tasmanian Government, p. 1.
48 Submission to the draft determination: Nexa Advisory, p. 2.
49 NER clause 5.16A.5(b).
50 Final rule, clause 6A.29.4(b)(5).
51 Clauses 6A.29.4(b)(2) and (b)(5).
52 Final rule, clause 6A.29.4(a).

onto the agreement (so that their customers contribute to the costs of the interconnector) to ensure timely delivery of the benefits of that interconnector. This contributes towards implementing a successful market-wide solution and delivering market-wide benefits.

AEMO supported providing flexibility for an agreement to be made between two or more Ministers for similar reasons.[53]

### 3.1.2 An interconnector cost allocation agreement must meet a minimum set of criteria

Our final rule introduces a new defined term 'interconnector cost allocation agreement'.[54] This agreement sets out the agreed cost allocation between the relevant Ministers for the specified interconnector. An agreement must satisfy a minimum set of implementation criteria, set out in Box 3 below, in order to be valid under the rules.[55] We consider that this provides regulatory certainty for TNSPs, CNSPs, consumers and the AER.

**Box 3: Implementation criteria to be satisfied for an agreement to be an interconnector cost allocation agreement**

- the agreement must be expressed to be made for the purposes of clause 6A.29.4;
- the agreement must identify the interconnector that it relates to (the specified interconnector);
- the specified interconnector must be a qualifying interconnector (see section 3.2 for more information);
- the specified interconnector must not, at any time after the start of the first implementation year, provide market network services;
- the relevant Ministers for the regions that costs are being transferred between must be parties to the agreement (see section 3.1.1 for more information);
- the agreement must be binding and executed as a deed and must not be subject to any unfulfilled conditions;
- the agreement must specify all the following matters:
  a. the transmission system assets, if any, which are to have the 'optimised replacement cost' value set to zero (see chapter 4 for more information)
  b. the TNSP for the specified interconnector (see chapter 4 for more information)
  c. each CNSP responsible for allocating the interconnector transfer amount under the agreement through transmission pricing in its region
  d. each implementation year applicable to the agreement
  e. the interconnector transfer amount to be allocated by each responsible CNSP in each implementation year, or how it is to be calculated (see chapter 4 and Appendix E for more information);
- a certified copy of the agreement must have been provided to the TNSP and each responsible CNSP (see chapter 4 for more information);
- where the region of a responsible CNSP contains the ACT, the agreement must contain a statement confirming that the ACT Minister has been consulted in relation to the agreement, and any amendment to it (see section 3.7.2 for more information).

53 Submission to the consultation paper: AEMO, p. 3.
54 Final rule, new definition in Chapter 10 of the NER.
55 Final rule, clause 6A.29.4(b).

Source: AEMC, Final rule, clause 6A.29.4(b).

A specified interconnector has the meaning given in clause 6A.29.4(b)(2) of our final rule. A specified interconnector:

- must be a qualifying interconnector (see section 3.2 for more information),
- is the interconnector for which an agreement is made and must be identified in the agreement, and
- must not provide market network services at any time after the start of the first implementation year.

An agreement must be binding and executed as a deed and must not be subject to any unfulfilled conditions. These requirements provide certainty that the agreement is in final agreed form and is not, for example, a non-binding memorandum of understanding, and that there are no further steps to be taken before the agreement is ready to be implemented, and no risk that the agreement will fall away because conditions precedent to the agreement are not met. The requirement for a deed reflects what in practice is likely to be needed for the agreement to be binding.

The rule change request proposed that an agreement would need to meet the following criteria to be implemented:[56]

- being legally binding on the relevant jurisdictions
- specify the allocation of costs between jurisdictions
- specify the time frame for the agreed cost allocation; and
- be submitted to the AER prior to the specified regulatory deadline.

Stakeholders considered that an agreement should have to meet a minimum set of criteria to provide regulatory certainty and implementation of an agreement.[57] The AER and ENA also suggested that any criteria should be set out in the NER rather than in AER Guidelines. The rule change request proposed that AER Guidelines could set out such criteria to provide high-level guidance to governments.[58] We have included the minimum set of criteria in the rules to provide greater clarity and certainty for stakeholders and to ensure that agreements made using this pathway can be implemented. The AER supported this approach and considered that it provided 'greater certainty for stakeholders.'[59]

Our final rule incorporates the proposed criteria from the rule change request and also includes additional criteria. Our final rule is a more preferable rule as it provides additional clarity regarding the information that must be included in an agreement to enable agreements to be implemented through existing pricing processes by TNSPs, CNSPs and the AER, as explained further in chapter 4.

56 Rule change request, p. 6.
57 Submissions to the consultation paper: AER, p. 2; Clean Energy Finance Corporation, p. 2; ENA, p. 2, 4; AEMO, pp. 2-3.
58 Rule change request, p. 6.
59 Submission to the draft determination: AER, p. 2.

## 3.2 Agreements can be made for interconnectors that are new or materially upgraded or converting to be regulated

**Box 4: Final rule determination - the final rule defines a qualifying interconnector which must satisfy at least one of three criteria**

Our final rule applies to qualifying interconnectors.[A] A qualifying interconnector means an interconnector that satisfies at least one of the following criteria:

- converting from market network service provider to a regulated interconnector: as at 3 October 2024, the network services provided by means of the interconnector were market network services;
- new regulated interconnector: as at 3 October 2024, construction of the interconnector had not commenced, or
- materially upgraded regulated interconnector: after 3 October 2024, construction commenced on a project to materially upgrade the rated power transfer capability of the interconnector and that material upgrade was the subject of an actionable ISP project.

This provides regulatory clarity and supports a successful market-wide implementation. It is more preferable than the rule change proposal as it provides additional specificity regarding which interconnectors the rule applies to.

**Changes from draft to final rule:**

- None

Note: [A] See the definition of 'qualifying interconnector' in final rule, clause 6A.29.4(a).

We received stakeholder feedback on two of the criterion for a qualifying interconnector which are discussed in detail below.

**Converting from market network service provider to a regulated interconnector**

The Tasmanian Government, APA[60] and EUAA recommended the Commission consider specific transitional arrangements for Basslink, which may convert from a market to regulated interconnector, subject to a decision by the AER.[61] The AER process would also confirm Basslink's revenue determination for its first five-year regulatory control period.[62] If converted, Basslink would meet the criteria for a qualifying interconnector, as it provided market network services as at 3 October 2024. However, stakeholders considered there was a disconnect between certain provisions in the draft rule and the ability for an agreement to apply from 1 July 2025, the proposed date for the commencement of the first Basslink regulatory control period.

This would make the rule unavailable for Basslink in its first year as a regulated interconnector, if converted. The disconnect arises from the commencement date proposed in the draft rule which was after 1 July 2025, as well as the need for an agreement to be provided to a TNSP with sufficient time for it to submit its revenue proposal and pricing methodology (17 months), or application to amend its pricing methodology (nine months), to the AER.[63] The AER noted that the timeframe for commencement 'may prevent the new rule being applicable to the potential conversion of Basslink to a regulated asset.'[64]

60 APA is the owner of Basslink.
61 Submissions to the draft determination: Tasmanian Government, pp. 1-2; APA, pp. 1-2, 8-9; EUAA, pp. 1-2.
62 AER, Basslink: Updated Commencement and Process Paper, August 2024, p. 1.
63 Submission to the draft determination: Tasmanian Government, p. 2.

The Commission has determined to not include a specific transitional arrangement to enable the rule to apply to the first year of Basslink's regulatory control period, if converted, for a number of reasons.

The conversion process predates this rule change[65] and a decision to convert Basslink to be a regulated interconnector, or not, is a matter for the AER, consistent with its requirements set out in the Rules. Additionally, the AER has advised that it intends to make its final decision on 28 February 2025, preceded by a draft decision and submission of a revised regulatory proposal by APA.[66]

A transitional arrangement would need to align with the AER's decision dates, however, these dates may be subject to change as the AER's process evolves. In addition, the transitional arrangement would need to align with existing processes and timeframes for pricing in the NER. These are a series of timebound and interconnected steps affecting multiple market participants that ensure valid pricing applies to consumers each year. For this purpose, MLEC is published on 15 February and transmission prices are published on 15 March.[67] These prices flow through to network tariffs in Distribution Network Service Providers' annual pricing proposals, retail tariffs and setting of the Default Market Offer by the AER.

Avoiding disruption to these processes and timings, as well as unintended consequences, would be challenging, reducing certainty for market participants and potentially affecting consumers. To accommodate the AER's current decision-making timeframe for Basslink, any transitional arrangement would also need to waive several integral steps outlined in the final rule, such as the date by which an agreement needs to be submitted by TNSPs to the AER (nine months before the start of a financial year, i.e. 1 October). It would also require bespoke arrangements for the AER's pricing methodology guidelines and information guidelines to apply to Basslink in the absence of necessary updates. AER's pricing methodology guidelines are not required by the final rule until 3 July 2025. These steps are intended to provide certainty and safeguards for market participants and the AER for the implementation of an agreement, and to align with existing processes for transmission revenue determinations and pricing.

For these reasons, the Commission does not consider that a specific transitional arrangement for Basslink would be in the long term interests of consumers as such an arrangement would reduce certainty for consumers and market participants. In addition, the risks and complexity of implementing such an arrangement would outweigh the benefits.

However, under the criteria for a qualifying interconnector in the final rule, Basslink would be a qualifying interconnector, if it were to convert to being a regulated interconnector. This would mean that an agreement could apply in any subsequent financial years if jurisdictions wish to pursue that option. To ensure an agreement could apply in the second year of the regulatory control period (from 1 July 2026), we have updated the commencement date for the final rule and therefore brought forward the completion of the AER's guideline updates to 3 July 2025. See section 3.7 for further detail.

**Materially upgraded regulated interconnector**

The AER highlighted that the definition of a material upgrade may be open to interpretation in such a way that the criteria could be used to adjust the default approach to cost allocation. It requested

64 Submission to the draft determination: AER, p. 2.

65 Basslink lodged its application on 19 May 2023 and this rule change request was received on 8 December 2023.

66 AER, Basslink: Updated Commencement and Process Paper, August 2024, p. 4.

67 NER clause 6A.24.2.

further guidance in the final rule determination.[68] ENA raised a similar concern and noted a preference that 'only the upgraded capacity may be subject to the new Rule' to be consistent with the approach that existing interconnectors (except a market network service provider) are not eligible for inclusion in an agreement.[69]

The Commission does not consider that a change to the definition is necessary and agrees with the AER's assessment that, on balance, the risk to consumers is relatively low.[70] The criteria already includes a link to the delivery of new infrastructure by reference to upgrades associated with an actionable ISP project. In the absence of that linkage, there are no self-evident limits on what constitutes materiality that would not introduce further subjectivity or potential unintended consequences, such as introducing other barriers to the delivery of net beneficial interconnector projects.

Actionable ISP projects are those that AEMO has determined will, as part of the ODP, deliver net benefits to consumers. It follows that there may be a cost to consumers if these projects (including upgrades) do not proceed. Our approach would provide the flexibility for existing assets to be incorporated in an agreement. We consider that it is appropriate for governments to have the flexibility to consider the materiality of an interconnector upgrade alongside the potential market benefits to consumers of delivering a particular project.

However, any agreement ultimately requires another government to negotiate and make, or amend, an agreed cost allocation. This provides a natural tension in the process to ensure respective interests can be satisfied in circumstances where parties are agreeing to alter what the cost allocation would otherwise be. Importantly, an agreement is also subject to scrutiny through the transparency provisions requiring publication of an agreement which the Commission has included in the final rule. See section 4.3 for further detail. We consider that Ministers using this new alternative pathway for interconnector cost allocation should communicate the benefits of any agreement to consumers in a timely way.

## 3.3 Agreements can be made for Intending TNSPs

**Box 5: Final rule determination - the final rule works for both TNSPs and Intending TNSPs**

Our final rule works for both interconnectors of current TNSPs and also for interconnectors that are not operating at the time the agreement is made at which time the operator may be an 'Intending TNSP' for the purposes of chapter 6A. This supports good regulatory practice by clarifying that the final rule would also apply to intending TNSPs.

**Changes from draft to final rule:**

- None

The current rules categorise transmission service providers as either:

- **TNSPs:** are currently providing prescribed transmission services, or
- **Intending TNSPs:** are intending to provide prescribed transmission services.

An Intending TNSP includes both:

- a person intending to construct a new regulated transmission project (e.g. Marinus Link).

68 Submission to the draft determination: AER, p. 1.
69 Submission to the draft determination: ENA, p. 2.
70 Submission to the draft determination: AER, p. 1.

- an existing MNSP that intends to reclassify its network services as prescribed transmission services to become a TNSP (e.g. Basslink).

Our final rule can apply to Intending TNSPs without amendments to the NER. This is because when the AER decides to commence a transmission determination process for an Intending TNSP to enable it to provide prescribed transmission services, the AER must prepare a commencement and process paper that specifies the date by which an Intending TNSP is to submit its initial revenue proposal and proposed pricing methodology under clause 6A.10.1 of the NER.[71]

The final rule provides a path for an agreement to be submitted to the AER by a relevant TNSP with its proposed pricing methodology that contains amendments to give effect to the agreement.[72] This is discussed further in chapter 4.

The Tasmanian Government noted the importance of ensuring costs already incurred for the Marinus Link project are able to be included in an agreement.[73] Marinus Link Pty Ltd is an Intending TNSP and, assuming completion, Marinus Link Pty Ltd will include its costs in its initial revenue proposal and proposed pricing methodology, as described above. It is therefore open to the Tasmanian and Victorian Governments to make an agreement that covers those costs and for that to be given effect, consistent with the provisions in this final rule.

## 3.4 An agreement will remain in place for the time agreed by the relevant Ministers

**Box 6: Final rule determination - jurisdictions will be able to determine the duration of an agreement**

Our final rule requires that an agreement specify the financial years in which the agreement applies (called 'implementation years' in the final rule).[A] Our final rule clarifies implementation matters, supporting the delivery of net beneficial interconnectors.

**Changes from draft to final rule:**

- None

Note: [A] Final rule, clause 6A.29.4(b)(7)(iv).

The Ministers proposed that one of the minimum criteria for agreement should be that agreements remain in place for the life of the asset unless otherwise agreed by the relevant Ministers.[74] Our final rule instead provides more flexibility by allowing the Ministers to specify the years over which the agreement applies, which could be the life of the asset, or some other agreed timeframe.

Stakeholders supported requiring agreements to state their intended duration.[75] ENA suggested that the only minimum criteria for an agreement should be duration of the agreement and a definition of the assets to which it applies.[76]

71 NER clause 6A.9.3(b)(2).
72 Final rule, clause 6A.10.1(j).
73 Submission to the draft determination: Tasmanian Government, p. 2.
74 Rule change request, p. 8.
75 Submissions to the consultation paper: AER, p. 2; ENA, p. 4; Marinus Link Pty Ltd, p. 3; AEMO, pp. 2-3.
76 Submission to the consultation paper: ENA, p. 4.

## 3.5 Jurisdictions will have the ability to amend the agreement, and these agreements will need to be incorporated into pricing arrangements

**Box 7: Final rule determination - jurisdictions will be able to amend agreements**

Our final rule allows jurisdictions to amend agreements, with all the same implementation criteria applying as if it were a new agreement.

**Changes from draft to final rule:**

- None

The rule change request outlines that the parties to any agreement should be able to make adjustments to that agreement.[77] Several stakeholders suggested that agreements should be able to be amended with the unanimous assent of the signatory jurisdictions.[78]

The Commission agrees with these views and notes that a contract cannot be amended without agreement of the parties. If desired, the requirement for unanimous agreement of the original parties to the agreement can also be explicitly provided for in the agreement itself.

An amended agreement must still meet all the implementation criteria which apply to new agreements, including the provision of the agreement to all affected TNSPs and CNSPs.[79] The TNSP under an agreement must apply to the AER if the agreement is amended.[80] The CNSP must also apply to the AER if the amendment to the agreement requires an amendment to its pricing methodology.[81] The final rule will enable the AER to amend pricing methodologies accordingly, so long as they consulted with the relevant TNSPs and any other such persons it considers appropriate and the proposed amended pricing methodology continues to comply with applicable requirements of the Rules.[82]

## 3.6 Specific requirements are needed to apply the rule in particular jurisdictions of the NEM

**Box 8: Final rule determination - the final rule applies with certain characteristics in Victoria and the ACT**

Victoria is an adoptive jurisdiction, but our final rule can apply in Victoria without modification to AEMO's functions because:

- the rule applies to CNSPs
- AEMO (in its capacity as the CNSP in Victoria) can carry out the functions given to CNSPs in the final rule in its role as CNSP.

The ACT jurisdiction is within the NSW NEM region and agreements made for the NSW region will therefore affect the ACT jurisdiction. The final rule includes specific consultation requirements where agreements are made that affect the ACT jurisdiction, recognising that NSW agreements

77 Rule change request, p. 8.
78 Submissions to the consultation paper: AER, p. 2; TasNetworks, p. 2; AEMO, p. 2.
79 Final rule, clauses 6A.29.4(b) and 6A.15.2(d)(1).
80 Final rule, clauses 6A.15.2 and 6A.29.4(j).
81 Final rule, clause 6A.29.4(k).
82 Final rule, clause 6A.15.2.

can impact ACT consumers.

**Changes from draft to final rule:**

- Makes clarifying amendments to clause S6A.4.2 NER, which modifies the application of chapter 6A to transmission services provided by the declared transmission system of an adoptive jurisdiction (i.e. in Victoria). These amendments clarify the operation of the rule for AEMO in its role as CNSP in an adoptive jurisdiction.[A]

Note: [A] Final rule, clauses 6A.29.1(b) and S6A.4.2.

### 3.6.1 How the final rule applies in Victoria

The final rule makes amendments to clause S6A.4.2 NER to clarify the operation of the rule for AEMO in its role as CNSP in an adoptive jurisdiction. It does not change AEMO's functions.

In its submission to the draft determination, AEMO noted that the draft rule would not allow it to reflect an agreement in its pricing methodology. Specifically, that the interconnector transfer amount would not fall within the requirements for AEMO's MAR. Prior to the amendments made by the final rule, the NER stated that AEMO's pricing methodology must be designed to recover no more than its MAR for the provision of prescribed shared transmission services.[83] AEMO's proposed solution was to introduce a new requirement to what comprises its MAR.[84]

The Commission agreed with AEMO's analysis, although the final rule adopts a different solution. The final rule does not change how any TNSP's MAR is formed, and so AEMO's MAR will continue to be only for provision of prescribed shared transmission services.[85] Under the final rule, as CNSP, AEMO will need to recover the total regional AARR for the Victorian region, which would include an interconnector transfer amount if applicable.[86]

In Victoria, at present, TNSPs that own transmission network assets are declared transmission system operators. For AEMO and these TNSPs, chapter 6A NER applies as modified by Schedule 6A.4. If Basslink converts and if Marinus Link is built, these will be transmission assets in Victoria that, based on the Commission's understanding, will not form part of the declared transmission system in Victoria. It follows that Schedule 6A.4 will not modify the operation of chapter 6A for those TNSPs. As such, AEMO will continue to calculate its MAR in the usual way under S6A.4.2(c)(4) and that will be used for the AARR under clause 6A.22.1. This reflects the principle in the final rule that a TNSP's MAR/AARR does not change due to an interconnector transfer amount; only the region it is collected from changes.

The final rule therefore amends the relevant provision describing the requirements for AEMO's MAR to allow AEMO's pricing methodology to reflect its role as CNSP to recover the total regional AARR, which includes any interconnector transfer amount.[87] In addition, the final rule modifies the definition of total regional AARR, as it applies to AEMO.[88] This approach is a more preferable solution as it allows the new framework to apply to AEMO, as much as is possible, consistently with the arrangements for other CNSPs in other jurisdictions.

83 Clause S6A.4.2(f)(1.)(b)(1) NER v216.

84 Submission to the draft determination: Australian Energy Market Operator, pp. 1-2.

85 Prescribed shared transmission services are shared transmission services that are prescribed TUOS services or prescribed common transmission services.

86 See section 4.4.2 for a description of the amounts that comprise the total regional AARR and how the interconnector transfer amount is included in that amount.

87 Final rule, clause S6A.4.2(f)(1.)(b)(1).

88 Final rule, clause S6A.4.2(k)(1.).

The final rule also makes other minor amendments in Schedule 6A.4 to reflect the movement of clauses throughout chapter 6A, update terminology introduced by the final rule, fix minor errors, and to improve readability of the NER.[89]

In its submission to our consultation paper, AEMO opposed any additional oversight by the AER of their Victorian Transmission Planning function.[90] Our final rule does not include any additional oversight by the AER of AEMO's Victoria's Transmission Planning function and does not alter that function.

### 3.6.2 How the final rule will apply in the ACT

The ACT has a unique arrangement in the NEM in that it is a participating jurisdiction under the NEL, but does not have its own region under the NER.[91] Based on the NEM's current regional boundaries, the ACT jurisdiction lies wholly within the NSW region. The Commission recognises that the ACT Minister may have an interest in the outcomes of an agreement that affects the NSW region, since it would also affect the consumers in the ACT.

Therefore, our final rule:

- does not require the ACT Minister to be a party to an agreement affecting the NSW region, but
- where the region of a responsible CNSP contains the ACT (i.e. NSW), the final rule requires the agreement to contain a statement confirming that the Minister for the ACT has been consulted in relation to the agreement and, where applicable, any subsequent amendment to it.[92]

Our final rule maintains consistency with the rest of the NEM in its operation, but also recognises that NSW agreements can impact ACT consumers.

There were no stakeholder submissions on this issue, but the Commission consulted directly with the ACT on this matter and the ACT government supported the approach.

## 3.7 Transitional provisions and commencement date

**Box 9: Final rule determination - the final rule commences on 3 July 2025 allowing time for the AER to updates its guidelines**

The final rule specifies a commencement date of 3 July 2025. This has been brought forward to ensure the rule can apply in the second year (1 July 2026) of Basslink's regulatory period, if converted, and if jurisdictions decide to use the rule.

This also requires the AER to complete any necessary updates to its pricing methodology guidelines and information guidelines by 3 July 2025. We expect any changes to the guidelines to be limited in scope.

The final rule also waives the requirement for AEMO to consult on amendments to its revenue methodology, if needed, to take into account the final rule. AEMO, in its capacity as CNSP for the Victorian region, will be required to implement any agreement made for that region.

**Changes from draft to final rule:**

- Requires the AER to complete any required updates to its guidelines by 3 July 2025.[A]

89 Final rule, clauses S6A.4.1, S6A.4.2 and 6A.29.1(b).

90 Submission to the consultation paper: AEMO, p. 4.

91 The Commonwealth is also a participating jurisdiction under the NEL without its own region, however, it is different to the ACT since the Commonwealth does not have its own population of consumers.

92 Final rule, clause 6A.29.4(b)(9).

- Brings forward the rule commencement date to 3 July 2025.[B]
- Waives consultation requirements for AEMO if amendments to its revenue methodology are needed to take the final rule into account.[C]

Note: [A] Final rule, clause 11.175.2.
Note: [B] National Electricity Amendment (Providing flexibility in the allocation of interconnector costs) Rule 2024 No.18, clause 2.
Note: [C] Final rule, clause 11.175.3.

### 3.7.1 Transitional requirement to amend AER Guidelines

Under the current rules, the AER must publish pricing methodology guidelines and information guidelines, which inform the preparation of TNSPs' pricing methodologies.[93]

Our final rule includes transitional arrangements that require the AER to review and, where it considers necessary or desirable, amend and publish the following guidelines to take into account the final rule:[94]

- the pricing methodology guidelines; and
- the information guidelines.

In amending the above guidelines, the AER must comply with the transmission consultation procedures.[95]

As discussed in section 3.2, several stakeholders requested an earlier commencement of the final rule to allow it to apply to Basslink in the first year of the regulatory period, if converted.[96] An earlier commencement date alone will not enable the rule to apply to Basslink in its first year. See section 3.2 for a full discussion on this timing issue.

However, to ensure the rule can apply in the second year (1 July 2026), if applicable, we have brought forward the commencement date and, therefore, the date by which the AER must complete its review and update of its guidelines.[97] The AER noted its willingness to engage with the Commission on an earlier date for completion of its guideline update.[98] The Commission has engaged directly with the AER to ensure it can complete and publish the updated guidelines by the commencement date of 3 July 2025.

### 3.7.2 The rule commences operation after the AER has updated its Guidelines

Our final rule commences on 3 July 2025, which allows time for the AER to review, amend and publish its amended pricing methodology guidelines and information guidelines.

We consider that this is a reasonable period of time for the AER to review and publish any required updates to these guidelines. This is because the new cost allocation framework made by this final rule determination provides a limited role for the AER and does not involve a merits-based assessment of the agreement between jurisdictions. Therefore, the Commission expects the changes to the guidelines to be relatively limited in scope.

93 NER clauses 6A.17.2(h) and 6A.25.2.
94 Final rule, clause 11.175.2(a).
95 Final rule, clause 11.175.2(b).
96 Submissions to the draft determination: Tasmanian Government, pp. 1-2; APA, pp.1-2, 8-9; EUAA, pp. 1-2.
97 Final rule, clause 11.175.2.
98 Submission to the draft determination; AER, p. 2.

### 3.7.3 Transitional requirement to waive AEMO's consultation obligations for its revenue methodology

AEMO also requested that we waive the requirement for it to undertake public consultation on any changes that may be required to its revenue methodology arising from the final rule. It noted that there is a precedent in the introduction of National Transmission Planner Fees.[99] The Commission agrees that waiving this requirement is reasonable if amendments to its revenue methodology are needed and therefore, the final rule includes a transitional provision to this effect.[100] AEMO, in its capacity as CNSP for the Victorian region, will be required to implement an agreement, if made for that region, and therefore, does not have discretion that would otherwise warrant public consultation.

99 Submission to the draft determination: AEMO, p. 2.

100 Final rule, clause 11.175.3.

# 4 How our final rule will operate - roles and processes

### Box 10: Summary of final rule determination - roles and processes

An agreement will not impact the total regulated revenue that a TNSP receives. Total regulated revenue for each TNSP, inclusive of revenue associated with the relevant interconnector, will continue to be determined by the AER in the normal manner every five years. However, an agreement will allow for a specified amount of a TNSP's total revenue to be recovered from a CNSP in the counterparty government's NEM region. Relevant CNSPs will recover the additional revenue required from customers in their region and pay it to the relevant TNSP in monthly instalments each year.

Our final rule determination enables jurisdictions to provide agreements to TNSPs and CNSPs and includes timing requirements that facilitate TNSPs and CNSPs meeting their regulatory obligations. The agreements will set out the relative contributions of the jurisdictions (by determining the 'interconnector transfer amount' or the manner in which this amount is to be calculated). TNSPs and CNSPs will then be required to reflect the agreement in their amended or proposed pricing methodologies before submitting these to the AER, either as part of a revenue determination process or part way through a regulatory control period.

The final rule requires the AER to assess whether an agreement meets the implementation criteria and whether the amendments to the pricing methodology provide for recovery from the appropriate region of interconnector transfer amounts in accordance with the requirements of chapter 6A of the NER. The AER will not assess the merits of an agreement. The final rule also makes provision for where the pricing methodology has not received final approval in time to set the forthcoming year's transmission prices.

To give effect to an agreement, CNSPs will amend their pricing methodologies to include the interconnector transfer amount as part of the total regional AARR. The final rule introduces this term to define the total amount that a CNSP for a region is responsible for allocating. The total regional AARR includes the interconnector transfer amount (when there is an agreement in place), as well as the AARR of the CNSP, the AARR of each other TNSP in the region, and any allocation agreed between CNSPs under clause 6A.29.3. The interconnector transfer amount affects total regional AARR by increasing it in one region and decreasing it in another, but does not change the ratios used to allocate total regional AARR to each category of prescribed transmission services.

CNSPs and TNSPs responsible for giving effect to the agreements will have a number of notification, publication, and payment requirements so that they can perform their respective functions effectively.

The final rule also provides for adjustments to avoid double counting and other distortions, including providing jurisdictions with the discretion to specify which transmission system assets are effectively removed from the calculation of modified load export charges.

The final rule does not provide for alterations to the current manner in which settlement residue auction proceeds are distributed under the NER.

The final rule diverges from the rule change request by incorporating a number of implementation details that were not originally considered in the Ministers' proposal. The final rule requires affected TNSPs to commence the process of implementing an agreement by submitting it to the AER along with its pricing methodology. This removes unnecessary procedural steps, and better reflects the AER's limited role in implementing transmission pricing. The final rule also diverges from the proposal by providing flexibility for jurisdictions to either submit agreements to TNSPs for incorporation as part of their revenue determination process, or to submit them during an existing regulatory control period.

**Changes from draft to final rule:**

- Clarifies that jurisdictions will need to provide new or amended agreements to relevant TNSPs and CNSPs within sufficient time to enable to those TNSPs and CNSPs to meet the various regulatory time constraints around submitting pricing methodology applications.[A]
- Introduces the new term 'total regional AARR' to distinguish between the AARR for an individual TNSP and the total AARR that a CNSP needs to allocate for an entire region. The total regional AARR includes an interconnector transfer amount.[B]
- Clarifies that the interconnector transfer amount is to be included in the total regional AARR but does not change the ratios in which the total regional AARR is to be allocated to each category of prescribed transmission services.[C]
- Clarifies the purpose of specifying transmission system assets in an agreement, which is to provide jurisdictions the discretion to set the optimised replacement cost of those assets to zero for the purposes of MLEC calculations. The assets specified in an agreement, if any, are effectively removed from MLEC calculations for the regions interconnected by the specified interconnector. This mitigates the risk that the MLEC charges associated with those assets unwind the agreed cost allocations.[D]

Note: [A] Final rule, clause 6A.29.4(j) and (k).
Note: [B] Final rule, clause 6A.22.5.
Note: [C] Final rule, clauses 6A.22.3(e) and 6A.23.2.
Note: [D] Final rule, clause 6A.29.4(b)(7)(i).

## 4.1 Relevant jurisdictions can provide valid agreements to the relevant TNSPs and CNSPs

To give effect to an agreement, the relevant jurisdictions will provide it to the TNSP for the interconnector and the CNSPs for the regions to which costs are being transferred. These agreements set out the relative contributions of the jurisdictions to the specified interconnector (by determining the 'interconnector transfer amounts' or the manner in which these are to be calculated).[101] The interconnector transfer amount could, for example, be calculated in accordance with a formula, or as a proportion of total costs for a specified interconnector. This provides flexibility for the relevant Ministers to develop and agree the interconnector transfer amount. The amount, or manner of its calculation, will be included in the agreement, which is published (as explained in section 4.3.3), providing transparency for consumers in the relevant regions.

The Ministers' rule change request envisaged that jurisdictions would submit their agreement directly to the AER.[102] Other stakeholders said that agreements should be submitted to the AER by the relevant TNSP, along with their proposed pricing methodology.[103]

We consider that requiring jurisdictions to initially submit their agreements to the AER would introduce an additional and unnecessary step. Therefore, under our final rule, the AER can satisfy its obligations (as explained in section 4.3) by receiving an agreement at the same time as it receives an affected TNSP's proposed pricing methodology.

101 Final rule, clause 6A.29.4(b)(7)(v).
102 Rule change request, p. 7.
103 Submissions to the consultation paper: ENA, p. 4; Marinus Link Pty Ltd, p. 3.

## 4.2 TNSPs will be required to amend their pricing methodologies to give effect to an agreement and seek AER approval of their pricing methodology

**Box 11: Final rule determination - requires TNSPs to incorporate the cost transfers provided for in agreements into their pricing methodologies, and to receive approval of those methodologies from the AER**

Once relevant TNSPs and CNSPs receive an agreement from jurisdictions, they will amend their pricing methodologies to allow for the cost transfers provided for in the agreement, and submit that proposed pricing methodology to the AER for approval. This could occur as part of a TNSP's revenue determination for the next regulatory control period, or it could also be accommodated during a regulatory control period.

**Changes from draft to final rule:**

- Clarifies that jurisdictions will need to provide new or amended agreements to the relevant TNSPs and CNSPs within sufficient time to enable those TNSPs and CNSPs to meet the various regulatory time constraints around submitting pricing methodology applications.[A]

Note: [A] Final rule, clause 6A.29.4(j) and (k)

The Ministers described the proposed rule as operating by allowing 'agreed allocations to be reflected in each relevant TNSP's transmission determination'.[104] A TNSP's transmission determination consists of a revenue determination and a pricing methodology.[105] The AER approves both when making a transmission determination for a TNSP. Supportive stakeholders suggested that agreements should be implemented through amendments to pricing methodologies of affected TNSPs (particularly for the TNSPs responsible for facilitating interconnector revenue cost recovery; the 'CNSP').[106]

Our view is that our final rule, which requires TNSPs to amend their pricing methodologies, provides the most straightforward and transparent approach to implementing agreements. We do not consider that revenue determinations need to be amended since the cost transfer is implemented through transmission pricing and the agreement will not impact the total regulated revenue that a TNSP will receive.

### 4.2.1 TNSPs will amend their pricing methodologies to give effect to the agreement in accordance with the NER requirements

After receiving an agreement, the relevant TNSP and CNSP are required to amend their pricing methodologies so that they give effect to the agreement in accordance with the requirements in chapter 6A. In the case of a TNSP, this is the adjustment required by clause 6A.29.1A(b) of the final rule,[107] and in the case of a CNSP, it is the inclusion of the interconnector transfer amount in the total regional AARR.[108] Jurisdictions will need to provide new or amended agreements to relevant TNSPs or CNSPs within sufficient time to enable them to meet the various regulatory time constraints around submitting pricing methodology applications.[109]

104 Rule change request, pp. 5-6.
105 NER clause 6A.2.2.
106 Submissions to the consultation paper: TasNetworks, p. 1; ENA, p. 5; Marinus Link Pty Ltd, p. 3.
107 Final rule, clause 6A.24.1(b2)(1).
108 Final rule, clause 6A.24.1(b2)(2).
109 Final rule, clause 6A.29.4(j)-(k).

Our final rule reflects the following approach:

- TNSPs and CNSPs are not parties to an agreement and it is not intended that agreements can impose obligations directly on them. TNSPs and CNSPs will give effect to the allocation of an interconnector transfer amount specified in an agreement solely by performing their functions and obligations under chapter 6A.
- In addition, an agreement can only be given effect in the manner provided for in chapter 6A and it is not intended that an agreement itself can modify chapter 6A or the obligations of the TNSP or CNSPs under chapter 6A.

See section 4.4 below for further details on how TNSPs and CNSPs will give effect to agreements through their pricing.

### 4.2.2 Relevant TNSPs and CNSPs must submit the agreement and their proposed pricing methodology, which gives effect to the agreement, to the AER

TNSPs will be required to submit a copy of the relevant agreement along with their pricing methodology to the AER.[110] Our final rule requires a certified copy of the agreement to be given to TNSPs and CNSPs to enable them to perform their functions.[111]

The AER must assess whether the pricing methodology provides for giving effect to the transfer of the interconnector transfer amount under the agreement in accordance with the requirements of the rules, and that the agreement satisfies the implementation criteria contained in the rules.[112] Our final rule clarifies this implementation consideration, which was not detailed in the rule change request.

The AER's role and the scope of its assessment is discussed further in the following section, section 4.3.

### 4.2.3 Agreements can be incorporated into pricing methodologies either as part of a revenue determination, or by amending the pricing methodology part way through a regulatory control period

Our final rule provides that agreements can be implemented either at the beginning of a new transmission determination process as part of the submission of a proposed pricing methodology, or during a regulatory control period.[113] The Ministers' proposal describes agreements being submitted as part of a TNSP's regulatory determination.[114] ENA considered that agreements could be submitted as part of a contingent project application or regulatory determination.[115]

If an agreement is submitted as part of the usual revenue determination process, the agreement will need to be provided to TNSPs and CNSPs before they are required to submit their revenue proposal and pricing methodologies to the AER.[116] If an agreement is submitted during an existing regulatory control period, our final rule requires the agreement to be provided to the AER at least nine months before the first implementation year, or for an amended agreement, the first implementation year that the amendment will take effect.[117] Therefore, the agreement must be

110 Final rule clause 6A.10.1(j) or 6A.15.2(a)(4). This includes CNSPs because they are TNSPs.

111 Final rule, clause 6A.29.4(b)(8).

112 Final rule, clauses 6A.11.1(a)(7), 6A.14.3(f1), 6A.15.2(d) and 6A.24.1(b2).

113 NER clause 6A.10.1(a) and final rule, clause 6A.10.1(j) as part of a new transmission determination and final rule, clause 6A.15.2 as part of an amendment during a regulatory control period.

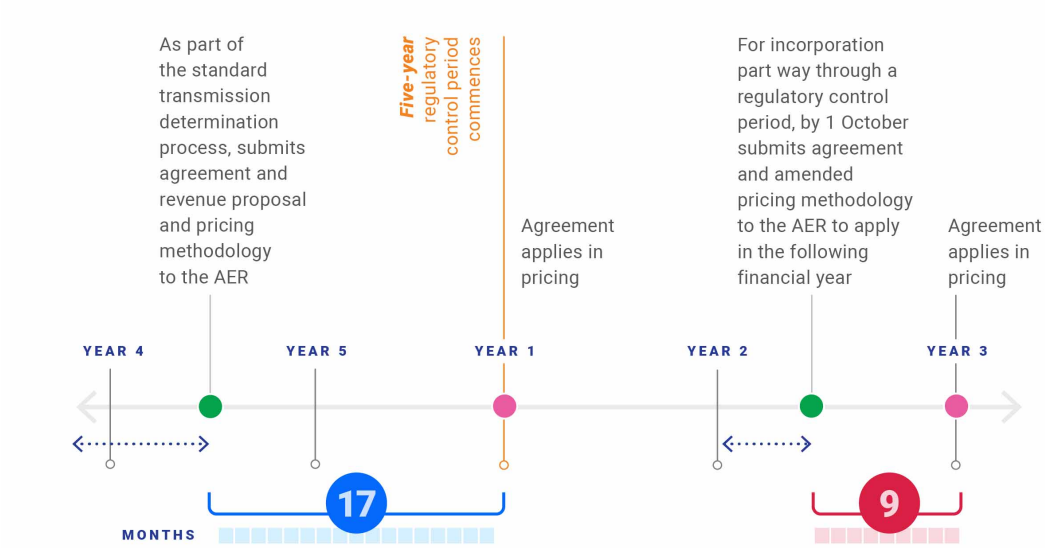
114 Rule change request, p. 7.

115 Submission to the consultation paper: ENA, p. 4. Contingent projects are major network infrastructure assets which have been flagged in long-term investment plans. When a network business has met the requirements to request cost recovery from consumers for one of these projects, it submits a contingent project application to the AER for approval; see https://www.aer.gov.au/industry/networks/contingent-projects/contingent-projects.

116 NER clause 6A.10.1(a).

provided to TNSPs and CNSPs in advance of that deadline. The details of each of these two cases is discussed below, and is presented in Box 12.

## Box 12: Timelines for agreement submission and application




**KEY**

- Jurisdictions provide new or amended agreements to TNSPs and CNSPs with sufficient time to be implemented (illustrative only, timeframe not defined)
- YEAR X — Is the relevant year of the regulatory control period which aligns with the financial year, which aligns with the financial year, ie. Year X is 1 July
- Steps required by the TNSP
- 17 — Period between submission of revenue proposal and pricing methodology by TNSP and the next regulatory period
- 9 — Period between submission of amended pricing methodology by TNSP and the next financial year (implementation year)
- Interconnector cost allocation agreement (agreement) applies

***Note:*** For simplicity, diagram does not include steps in the AER's consideration of a revenue determination under the standard transmission determination process or approval of an amended pricing methodology. The diagram assumes a valid and implementable agreement and pricing methodology are submitted by TNSP.

### Agreements could be incorporated into proposed pricing methodologies submitted as part of the standard transmission determination process

Under the usual process, a TNSP is required to submit its revenue proposal and pricing methodology to the AER 17 months before the expiry of the TNSP's current revenue determination.[118] Agreements provided to the TNSP will need to be included with the material provided at that time.[119] If an agreement is to be submitted as part of this determination process, the agreement will need to be provided to the TNSP in the lead up to the submission deadline. The final rule does not specify precisely how long before TNSPs are required to submit a revenue proposal and pricing methodology to the AER that the relevant jurisdictions must provide the

117 Final rule, clause 6A.15.2(a)(3). An implementation year must be a financial year.
118 NER clause 6A.10.1(a). This also includes CNSPs because they are TNSPs.
119 Final rule, clause 6A.10.1(j).

agreement to them. However, the final rule states that the agreement must be provided within sufficient time to enable TNSPs and CNSPs to meet these timeframes.[120] In practice, we expect governments will engage with affected TNSPs and CNSPs well before this deadline to ensure the agreement, when formally provided to the AER, will be valid and implementable.

Given the significant construction time frames for large infrastructure projects like interconnectors there should be ample time to ensure agreements are provided to TNSPs to incorporate into their pricing methodologies submitted as part of the next regulatory determination process. For example, AEMO estimated that the interconnector 'VNI West' would be in service by December 2028.[121] It was first identified as an actionable project in the 2020 ISP.[122]

**There will also be an ability to incorporate agreements into pricing methodologies part way through a regulatory control period**

The final rule also facilitates the AER approving amendments to a pricing methodology for situations where an agreement is made during an existing regulatory control period and needs to be implemented before the next regulatory control period.[123]

If an agreement (or amended agreement) is submitted during a regulatory control period, our final rule requires the application for an amendment to the pricing methodology to be submitted to the AER at least nine months before the first implementation year, or for an amended agreement, the first implementation year that the amendment will take effect.[124] The final rule defines an implementation year as a financial year,[125] and therefore, this means applications to amend a pricing methodology during a regulatory control period need to be submitted to the AER by 1 October in any given year.

Again, the final rule does not specify precisely how long before this nine month deadline the relevant jurisdictions must provide the agreement to TNSPs and CNSPs. However, the final rule states that the agreement must be provided within sufficient time to enable them to meet these timeframes.[126] Therefore, the agreement must be provided to affected TNSPs and CNSPs within sufficient time before 1 October to allow them to prepare amendments to their pricing methodologies and submit the application to the AER by 1 October.

Once affected TNSPs and CNSPs submit an application to the AER to amend an existing pricing methodology, the AER will be able to approve that amendment during a regulatory control period where the agreement meets the implementation criteria and the amended pricing methodology provides for giving effect to it in accordance with the requirements in the rules.[127] By allowing for amendments to give effect to an agreement during a regulatory control period, the final rule provides greater flexibility and supports implementation considerations.

The AER's power to amend a pricing methodology mid-regulatory control period will be limited to approving amendments where the amended pricing methodology only varies to the extent which is necessary to implement the transfers provided for in the agreement through the transmission

120 Final rule, clause 6A.29.4(j)(1) and (k)(1).

121 AEMO, 2024, Integrated System Plan, p. 62. Available at https://aemo.com.au/-/media/files/major-publications/isp/2024/2024-integrated-system-plan-isp.pdf?la=en.

122 AEMO, 2020, Integrated System Plan, p. 15. Available at https://aemo.com.au/-/media/files/major-publications/isp/2020/final-2020-integrated-system-plan.pdf?la=en&hash=6BCC72F9535B8E5715216F8ECDB4451C.

123 Final rule, clause 6A.15.2.

124 Final rule, clause 6A.15.2(a)(3).

125 Final rule, definition in Chapter 10.

126 Final rule, clause 6A.29.4(j)(1) and (k)(1).

127 Final rule, clause 6A.15.2(d).

pricing process in chapter 6A.[128] That is, the final rule does not allow TNSPs or CNSPs to amend a pricing methodology through this process for changes unrelated to the implementation of interconnector transfer amounts under agreements.

## 4.3 The role of the AER in assessing agreements and approving the pricing methodology

**Box 13: Final rule determination - the role of the AER**

Our final rule will require the AER to:

- assess whether an agreement satisfies the minimum implementation criteria (as explained in chapter 3)
- assess that proposed pricing methodologies provide for giving effect to an agreement in accordance with the requirements of the rules
- publish the agreement and pricing methodology as part of assessing a pricing methodology which has been proposed or amended to give effect to an agreement.

Our final rule also makes provision for where the pricing methodology has not received final approval in time to set the forthcoming year's prices. Our final rule does not require the AER to assess the merits of an agreement.

**Changes from draft to final rule:**

- None

The Ministers' proposal described the AER as being responsible for determining whether the agreement met specified criteria (see chapter 3).[129] Stakeholders largely supported a limited role for the AER with respect to the approval of agreements, specifying that agreements should be checked against minimum criteria and that pricing methodologies should be approved where consistent with the original cost allocation agreement.[130] The AER proposed that their function be 'limited to a mechanistic role in implementing the agreed cost allocation'.[131] In its submission to the draft determination, the AER supported the role set out for it in the draft rule.[132]

### 4.3.1 The AER will be required to assess whether an agreement meets the implementation criteria

The Commission's final rule determination is that the AER should not have a role in assessing the merits of an agreement, but rather should only assess whether the agreement meets the implementation criteria specified in the rules.[133] The view of the Commission is that jurisdictions are well-placed to determine whether agreements are in the interests of the consumers in their respective jurisdictions, and have a strong incentive to ensure that they are. Furthermore, our view is that this rule will encourage proactive engagement between jurisdictions, potentially affected TNSPs and CNSPs, and the AER before an agreement is made to ensure it can be implemented and will be valid.

128 Final rule, clause 6A.15.2(d)(2)(ii).
129 Rule change request, p. 6.
130 Submissions to the consultation paper: ENA, p. 4; Marinus Link Pty Ltd, p. 3; AEMO, p. 3; EUAA, p. 3; AER, p. 1.
131 Submission to the consultation paper: AER, p. 1.
132 Submission to the draft determination: AER, p. 2.
133 See chapter 3 and criteria in final rule clause 6A.29.4(b).

Once the agreement is submitted to the AER, the AER will assess whether the agreement satisfies the implementation criteria.

If the agreement does not satisfy the implementation criteria, the AER will notify the relevant TNSP. [134] The AER cannot approve a proposed or amended pricing methodology unless the AER is satisfied that the agreement satisfies all the implementation criteria.[135]

However, this process largely relies on the TNSP submitting a valid and implementable agreement to the AER as the timing and structure of the existing regulatory processes do not readily facilitate changes being made to the agreement if it does not satisfy the criteria. Therefore, the Commission expects that:

- jurisdictions will have a strong incentive to ensure that the agreement submitted to the TNSP is valid and implementable
- jurisdictions, TNSPs, CNSPs and the AER will informally engage with each other on the requirements for agreements prior to their formal submission to the AER to ensure a smooth regulatory process once the formal process is initiated by TNSPs.

### 4.3.2 The AER will be responsible for assessing whether the proposed pricing methodology provides for giving effect to the agreement

Where the agreement is assessed as meeting the implementation criteria, the AER's existing role of approving TNSP pricing methodologies will include assessing whether the pricing methodology provides for giving effect to the agreement in accordance with the requirements of the rules.[136] The AER will only be able to approve amendments to the pricing methodology to the extent those amendments are necessary to give effect to the agreement (or amendment to the agreement) and if the pricing methodology continues to comply with the requirements for a pricing methodology under chapter 6A.

Where an agreement is submitted as part of the revenue determination process, the usual consultation requirements of that process will apply.[137] When an agreement is submitted during a regulatory control period, the final rule requires the AER to consult with the other TNSPs who are responsible for implementing the agreement,[138] and may also, in its discretion, consult with any other parties it considers appropriate.[139]

The effect of this is that the consultation may be different depending on whether the agreement is submitted during a revenue determination process, or as a bespoke amendment to a pricing methodology during a regulatory control period. This is because the revenue determination process already specifies consultation requirements that occur. It is not the Commission's intention that the AER will be required to consult broadly on the amendments to a pricing methodology arising from an interconnector cost allocation agreement. However, the Commission recognises that where the agreement is submitted as part of the revenue determination process, it will form part of that broader process. The final rule does not require the AER to consider or address any stakeholder feedback that it might receive in relation to an agreement submitted as part of the revenue determination process since the AER's role is limited to assessing whether the

134 Final rule, clauses 6A.11.1(a)(7) for an agreement submitted as part of the revenue determination process and clause 6A.15.2(b) for an agreement submitted during a regulatory control period.

135 Final rule, clause 6A.14.3(f1) and 6A.15.2(d)(1).

136 NER clause 6A.11.1(a) and final rule, clauses 6A.11.1(a)(7), 6A.15.2(d)(2) and 6A.14.3(f1).

137 For example, NER clauses 6A.11.3 and 6A.12.2.

138 This would include the relevant CNSPs, who are also TNSPs.

139 Final rule, clause 6A.15.2(e).

agreement satisfies the implementation criteria and whether the amendments to the pricing methodology are consistent with the other requirements of chapter 6A.

### 4.3.3 AER will publish the agreement and pricing methodology

When an agreement is incorporated into a TNSP's pricing methodology as part of a revenue determination process, the AER must publish that pricing methodology and associated information, such as the agreement.[140] In the circumstance that the AER receives an application to amend an existing pricing methodology during a regulatory control period, it has to publish that pricing methodology and the associated agreement.[141]

### 4.3.4 Where a proposed or amended pricing methodology has not yet been approved, prices are set in accordance with a draft decision or by rolling forward the previous year's arrangements

Current clause 6A.24.3 deals with the basis for setting prices where approval of a pricing methodology is delayed and prices for the coming financial year need to be set. The final rule amends this clause to provide for a situation where there is a delay in approving a request for an amendment to a pricing methodology under new clause 6A.15.2 and to explain which interconnector transfer amount is used if there is a delay. If the AER has made a draft decision approving the proposed pricing methodology, then the interconnector transfer amount will be calculated using the amount specified by the agreement provided for in that methodology. Otherwise, consistent with current clause 6A.24.3, the arrangements from the prior year are rolled forward for a year and this will include rolling forward the prior year's calculation of the interconnector transfer amount – which, in the case of a new agreement, would be zero.

## 4.4 TNSPs and CNSPs will give effect to agreements once modified pricing methodologies are approved

**Box 14: Final rule determination - Affected TNSPs and CNSPs will give effect to agreements through transmission pricing by adjusting the AARR of relevant TNSPs and total regional AARR for relevant regions, and will have information, collection, and payment responsibilities**

Our final rule provides that once the AER has approved relevant pricing methodologies, the agreement is implemented through the annual transmission price setting process. Broadly, this involves giving effect to the agreement for each implementation year through pricing in each financial year by:

- requiring responsible CNSPs to include interconnector transfer amounts as part of the total regional AARR to be recovered for their region
- CNSPs recovering the interconnector transfer amount from its region and paying that amount to the relevant TNSP in equal monthly instalments
- affected TNSPs and CNSPs providing the requisite notifications and information to each other necessary to facilitate the implementation of agreements
- providing for adjustments to avoid double counting and other distortions.

Our final rule does not provide for agreements to alter how the settlement residue proceeds are

140 NER clause 6A.11.3(a)(3).
141 Final rule, clause 6A.15.2(c).

currently allocated under the NER.

Our final rule clarifies the implementation considerations covered in this section, which were not detailed in the rule change request.

See Appendix E where we provide worked examples of how the rule will apply through two illustrative examples.

**Changes from draft to final rule:**

- Introduces the new term 'total regional AARR' to distinguish between the AARR for an individual TNSP and the total AARR that a CNSP needs to allocate for an entire region. The total regional AARR includes an interconnector transfer amount.[A]
- Clarifies that the interconnector transfer amount is to be included in the total regional AARR but does not change the ratios in which the total regional AARR is to be allocated to each category of prescribed transmission services.[B]
- Clarifies the purpose of specifying transmission system assets in an agreement, which is to provide jurisdictions the discretion to set the optimised replacement cost of those assets to zero for the purposes of MLEC calculations. The assets specified in an agreement, if any, are effectively removed from MLEC calculations for the regions interconnected by the specified interconnector. This mitigates the risk that the MLEC charges associated with those assets unwind the agreed cost allocations.[C]

Note: [A] Final rule, clause 6A.22.5.
Note: [B] Final rule, clause 6A.22.3(e) and 6A.23.2.
Note: [C] Final rule, clause 6A.29.4(b)(7)(i).

Once approved as part of the pricing methodologies, TNSPs and CNSPs will give effect to the agreement through the transmission pricing process in Part J of chapter 6A NER as follows:

- Each year, by 15 February, a TNSP receiving an increased contribution to their AARR from another jurisdiction will notify the CNSP for the contributing region (or regions) of the amount of the contribution (the interconnector transfer amount).
- The CNSP(s) in turn will include the interconnector transfer amount in the total regional AARR so that it is recovered from its region through the allocation and adjustment process that is used to determine transmission prices for its region.
- The CNSP(s) will then pay the interconnector transfer amount they are responsible for recovering to the relevant TNSP in equal monthly instalments.
- A corresponding deduction is made by the TNSP to its AARR in the region to which the payment is being made, to avoid double counting.

In Appendix E we have developed two worked examples to illustrate how the rule could be implemented. The rest of this section provides the details for how our final rule will provide for giving effect to agreements through transmission pricing.[142]

In addition, Appendix D provides a more detailed explanation for each clause of the final rule. It is written for those stakeholders and their advisers who are likely to engage with the rule drafting and implementing interconnector cost allocation agreements.

142 We also recommend interested stakeholders refer to the CEPA report published alongside the draft determination for further explanation of the modified load export charge and settlement residue auction aspects of interconnector pricing. Available at https://www.aemc.gov.au/sites/default/files/2024-06/CEPA%20Report%20Settlements%20Residue%20Auction%20and%20Modified%20Load%20Export%20Cost.pdf

### 4.4.1 Agreements will impact transmission pricing in the first implementation year

TNSPs will start setting prices in accordance with an agreement in the first implementation year.[143] The term 'implementation year' is used to refer to the financial years in which cost transfers are to be made. The first implementation year is the first financial year the agreement is to take effect. This allows for an agreement to be made while the specified interconnector is still under development, with cost transfers only commencing once the interconnector is in commercial operation. The implementation years align with financial years because this is the basis upon which pricing is currently implemented (i.e. on a financial year basis).

### 4.4.2 Agreements will be given effect by inclusion in the total regional AARR for regions affected by an agreement

There are a number of ways in which the rules could have been amended to facilitate these agreements, but the Commission considers that the approach of the final rule to require CNSPs to include the interconnector transfer amount in the total amount to be recovered from its region (i.e. the total regional AARR) provides an appropriate outcome for consumers. This more or less aligns with the proposal in the rule change request to adjust the AARR.[144] The final rule introduces the term 'total regional AARR' to clarify the difference between the AARR related to a single TNSP and the total AARR calculated by a CNSP for a region.[145] The total regional AARR is the sum of the relevant CNSP's AARR, the AARR of other TNSPs providing prescribed transmission services in that region, and any interconnector transfer amount which the CNSP is responsible for allocating to give effect to an agreement.[146]

#### We considered a number of policy options

The Commission considered the following options for incorporating the interconnector transfer amount under the agreement into TNSP pricing:

- as an adjustment to the total regional AARR
- as an adjustment to the non-locational component of prescribed transmission use of system (TUOS) services or prescribed common transmission services
- through adjustments to MLEC
- a hybrid of the above options.

#### Stakeholders have a variety of views on which pricing methodology component should be altered to give effect to an agreement

The Ministers' proposal was that agreements should allow the relevant TNSPs to reflect the cost allocation of the interconnector's AARR between their respective consumers. The proposal did not detail how the pricing methodologies of those TNSPs should be amended to give effect to agreements. ENA suggested that agreements could be implemented by amending the AARR of relevant TNSPs, but should not be implemented through the adjusted operation of modified load export charge (MLEC) provisions.[147] EUAA suggested that agreements should be treated

143 See the definition of 'implementation year' in the final rule, Chapter 10 NER.

144 However, the final rule introduces the new concept of 'total regional AARR' and specifies more precisely how the relevant allocations occur.

145 The AARR for a TNSP is the maximum annual revenue to be raised by the network incorporating their allowed earnings, adjusted for: specific regulatory matters (NER rule 6A.7) or contingent projects (NER rule 6A.8) or revocation or amendment of existing pricing methodology (NER rule 6A.15); operating and maintenance costs expected to be incurred in the provision of prescribed common transmission services (NER clause 6A.22.1).

146 Final rule, clause 6A.22.5. Total regional AARR will also include any allocations across several regions as agreed between CNSPs of interconnected regions under NER clause 6A.29.3.

147 Submission to the consultation paper: ENA, pp. 3 and 5.

separately in TNSP revenue determinations, similar to how the Victorian Transmission Easement Tax is allocated into the *prescribed common transmission services* pricing category.[148]

In its submission to the draft determination, AEMO raised a concern that the draft rule did not provide sufficient clarity as to how the interconnector transfer amount would be allocated from the AARR to categories of prescribed transmission services.[149] To address this, AEMO suggested agreements should be given effect by requiring that the interconnector transfer amount be allocated directly to a prescribed transmission service category. AEMO's preference was for the interconnector transfer amount to be allocated to prescribed common transmission services as it considers the interconnector transfer amount to best align with that description of services as it 'does not provide varying benefits to customers based on their location within a region'.[150]

Separately, AEMO viewed the allocation of the interconnector transfer amount to the AARR as potentially distortionary because it would increase the locational revenue requirement. In AEMO's view, this could create a risk that higher charges from MLEC calculations may unwind the intent of the agreement.

**Our final rule determination requires that agreement cost allocations are given effect to by inclusion in the total regional AARR for relevant regions**

Our final rule determination requires the interconnector transfer amount to be included in the calculation of total regional AARR by the responsible CNSP.[151]

The diagram in Box 15 provides a simplified 'waterfall' diagram of the key steps involved in transmission pricing and shows how the interconnector transfer amount flows through transmission pricing.

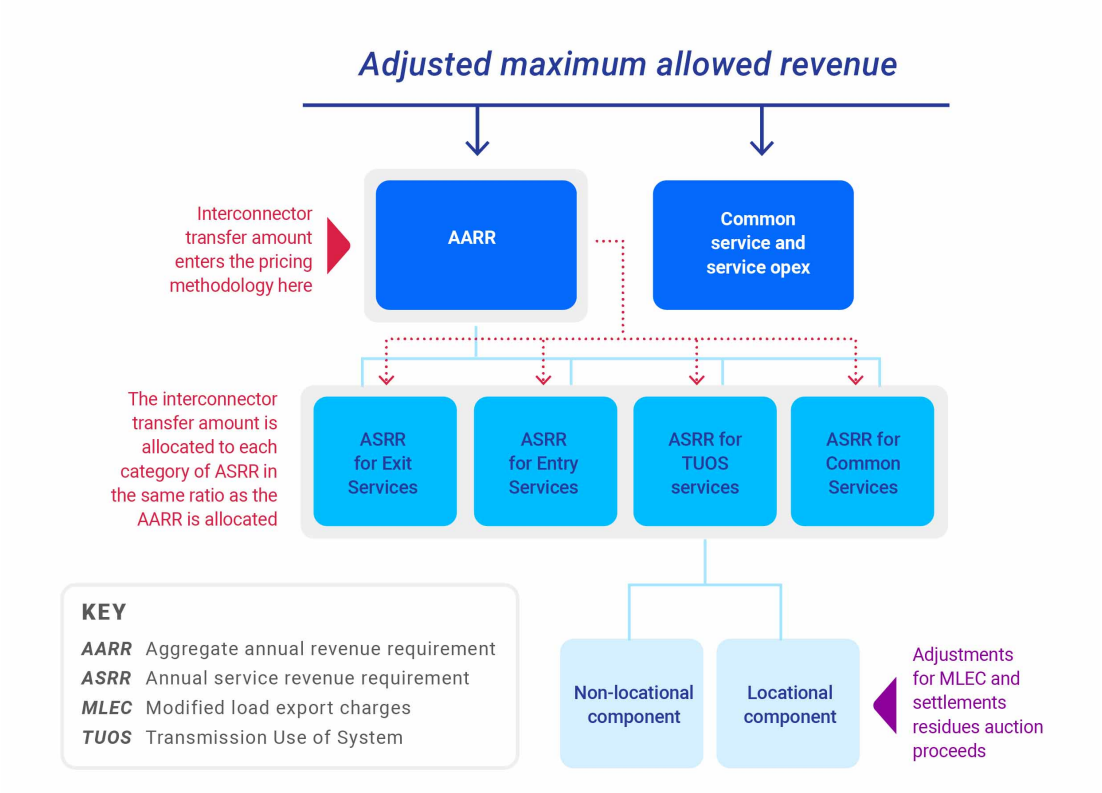
148 Submission to the consultation paper: EUAA, p. 3; AusNet Services 2024-25 Application for Pass-through of Easement Tax Event (March 2024). Available at www.aer.gov.au/system/files/2024-04/AusNet%20Services%202024-25%20ELT%20Pass%20Through%20Application%20-%20March%202024.pdf

149 Submission to the draft determination: AEMO, p. 2.

150 Submission to the draft determination: AEMO, p. 2.

151 Final rule, clause 6A.22.5. The 'responsible CNSP' refers to the CNSP responsible for giving effect to an agreement for their region.

### Box 15: Simplified diagram of the transmission pricing waterfall




Responsible CNSPs allocate the total regional AARR to each category of prescribed transmission services.[152] The allocation by a CNSP of total regional AARR to each category of prescribed transmission services follows the same principles as for a TNSP allocating its own AARR to services.[153] To address AEMO's concern regarding the lack of clarity of how this allocation should happen, we have clarified that the inclusion of an interconnector transfer amount will not change the ratios informing the allocation of total regional AARR to the four prescribed transmission service categories.[154]

An interconnector transfer amount affects total regional AARR by increasing it in one region and decreasing it in another, but the ratios used to allocate total regional AARR to service categories in region do not change. The reduction flows through the AARR in the region the costs are being transferred from in the same proportions as the attributable cost shares in that region. The practical effect is that the inclusion (or deduction) of an interconnector transfer amount is symmetrical and is spread across each category of prescribed services in the same ratios as the other amounts comprised in the total regional AARR.

The ratios which inform the allocation of total regional AARR to service categories are calculated by comparing the costs of transmission system assets attributable to different service categories to the total costs of transmission system assets. The interconnector transfer amount itself is not a transmission system asset and so does not affect the attributable cost share for any category of prescribed transmission service.

152 Final rule, clause 6A.22.2.
153 Final rule, clause 6A.23.2.
154 Final rule, clause 6A.22.3 and specifically 6A.22.3(e).

Including the interconnector transfer amounts in the total regional AARR for the responsible CNSPs region reflects the Commission's preference to:

- prevent agreements from introducing unintended distortions to the balance of the locational and non-locational signals received by consumers, and thereby potentially undermining principles of market efficiency.
- simplify outcomes and improve the ability to implement the rule, thereby aligning with the assessment framework for the rule.

The Commission considers that the alternative options have the following potential disadvantages:

- Incorporation into the non-locational component of prescribed TUOS services or in prescribed common transmission services category could lead to a distortion of the balance of locational and non-locational signals received by consumers. For example, if the interconnector transfer amount were allocated to the common services category, then every additional interconnector agreement would increase the relative strength of non-locational signals in transmission pricing.
- Adjusting the operation of existing provisions for MLEC to give effect to the entirety of the agreement would be complex.[155]
- Adopting a hybrid model would introduce additional complexity to an already complex aspect of network regulation, and would still require judgements as to how to weigh different charges between the various elements.

### 4.4.3 CNSPs will be responsible for recovering interconnector transfer amounts and paying them to the TNSP for the interconnector

As explained above, a responsible CNSP will include the interconnector transfer amount as part of the total regional AARR for their respective region and will recover that amount through transmission prices for the region.[156]

That CNSP will also be responsible for paying the relevant amount for each implementation year to the TNSP for the specified interconnector in equal monthly instalments.[157]

Therefore, the interconnector's TNSP will receive the interconnector transfer amount as a payment in monthly instalments from the CNSP(s), and not through transmission prices in its own region.[158] In order to avoid double counting, our final rule requires the specified interconnector's TNSP to deduct from its AARR the interconnector transfer amount they will receive from the paying CNSP(s).[159] See section 4.4.5 below for further discussion.

### 4.4.4 Affected TNSPs will have to provide requisite information, notifications, and publications

The final rule requires affected CNSPs and TNSPs to provide requisite notifications and information to each other that are necessary to implement agreements.

155 The final rule does, however, provide jurisdictions party to an agreement the discretion to adjust the optimised replacement cost for specified transmission system assets for the purposes of MLEC calculations. See below in section 4.4.5 and final rule, clauses 6A.29.4(b)(7)(i) and 6A.29.4(g).

156 Final rule, clauses 6A.22.2 and 6A.23.2.

157 Final rule, clause 6A.29.4(f).

158 Some interconnectors will be owned by different TNSPs in each of the regions it interconnects (an integrated interconnector). In other cases, one TNSP will own the whole interconnector and apportion its total AARR between regions (a standalone interconnector). See Appendix E for examples.)

159 Final rule, clause 6A.29.4(h).

#### Affected TNSPs will have reporting and notification obligations

Where the TNSP's pricing methodology provides for giving effect to the agreement, the TNSP is required, by 15 February each year, to:

- first, determine in accordance with the agreement, the interconnector transfer amount (or amounts) that the CNSP(s) will be responsible for allocating in the forthcoming implementation year[160] and
- second, to notify the amount (or amounts) to the responsible CNSP(s).[161]

The TNSP is also required to provide information reasonably requested by the CNSP to perform its functions with respect to implementing the agreement.[162] The TNSP must also publish agreements impacting them, and annually publish and update all interconnector transfer amounts at the same time it publishes transmission prices.[163]

#### Affected CNSPs will have obligations to publish and provide requisite details

CNSPs implementing an agreement will be required to publish with their pricing methodology all MLEC to apply the following financial year by 15 February (as they currently do) and also publish the interconnector transfer amounts to be allocated by the CNSP for the following financial year by 15 March each year.[164]

### 4.4.5 The final rule provides for adjustments to prevent unintended consequences

The final rule also provides for adjustments to calculations to prevent any potential double counting and pricing distortions.[165]

#### Preventing double counting of interconnector transfer amounts

Agreements do not change the total revenue any TNSP receives. Instead, it changes the region from which the agreed amount is recovered. Therefore, a TNSP receiving payments for an interconnector transfer amount from a CNSP in another region is required to deduct this amount from the AARR they need to recover from their own region.[166] This is because the amount is recovered from consumers in the other region(s) and therefore, does not also need to be recovered by the TNSP from consumers in its region.

#### Removing potential double payments

The final rule also confirms that if a CNSP pays an interconnector transfer amount to the TNSP for a specified interconnector, it is not required to pay the same amount under any other provisions of the rules (such as clause 6A.27.4).[167] The final rule requires the CNSP to pay the interconnector transfer amount to the relevant TNSP in equal monthly instalments in each implementation year.[168]

160 Final rule, clause 6A.29.4(d)(1).
161 Final rule, clause 6A.29.4(d)(2).
162 Final rule, clause 6A.29.4(e).
163 Final rule, clause 6A.24.2(e).
164 Final rule, clause 6A.24.2(b).
165 Final rule, clause 6A.29.4(g) to (i).
166 Final rule, clause 6A.29.4(h).
167 Final rule, clause 6A.29.4(i).
168 Final rule, clause 6A.29.4(f).

### Preventing the MLEC from unwinding cost allocations in the agreement

Our final rule also provides jurisdictions the ability to require relevant CNSPs to mitigate the extent to which the MLEC process changes the cost allocation specified in the agreement.[169] Our final rule allows jurisdictions to effectively remove transmission system assets specified in the agreement from the MLEC calculations between the regions that are interconnected by the interconnector the subject of the agreement. It achieves this by requiring the CNSP to set the value of the specified assets to zero when calculating the relevant MLEC payable by or to the CNSP.

This addresses the risk that the interconnector transfer amount deducted from a region potentially flows back through modified load export charges to that region. This is intended to prevent MLEC from effectively unwinding some proportion of the cost allocations specified in the agreement. MLEC would continue to apply to any other transmission system assets which have not been specified in the agreement for this purpose. This could increase or reduce the amount transferred between TNSPs in the interconnected regions independently of the agreement.

#### Box 16: Short description of modified load export charges (MLEC)

MLEC is applied by determining the relative contribution of all connection points - including an interconnector's - to the peak use of the exporting network's assets. The contribution of an interconnector to peak demand is then used to determine the gross amount the importing TNSP will need to recover from their consumers for transfer to the exporting TNSP. This calculation is undertaken for flows going both ways on an interconnector, and the 'net MLEC' is then applied through pricing.

ENA provided the original proposal on how the rules could be amended to prevent the allocation in the agreement from being effectively 'unwound' through the operation of MLEC.[170] In response to the draft determination, the ENA broadly agreed with our approach to MLEC, but raised some concerns with which assets should be specified to be effectively excluded from MLEC.[171]

In its response to our draft determination, AEMO said that adjusting the optimised replacement cost for specific assets could distort the locational price signals as it is an indirect and not completely effective approach to addressing the risk of MLEC unwinding the agreed cost allocation.[172] AEMO's concerns were raised in the context of whether the interconnector transfer amount should be incorporated into the total regional AARR or as an adjustment to a non-locational category of prescribed transmission services. As outlined above in section 4.4.2, our view is that inclusion in the total regional AARR is the approach which balances simplicity and minimises distortions to transmission price signals.

Jurisdictions have the discretion to mitigate the risk of MLEC unwinding their agreed cost allocations either by:

- specifying transmission system assets whose optimised replacement cost is to be set to zero in order to be effectively removed from inter-regional MLEC calculations, or

169 Final rule, clauses 6A.29.4(b)(7)(i) and 6A.29.4(g).

170 Submission to the consultation paper: ENA, p. 3: ENA suggested that this could be achieved by 'setting the value of the interconnector assets to zero for the purposes of applying the MLEC'.

171 Submission to the draft determination: ENA, pp. 1-3.

172 Submission to the draft determination: AEMO, p. 3.

- developing an interconnector transfer amount in a manner that takes all pricing considerations into account and preserves the agreed cost allocation.[173]

**This approach has precedent and there will be transparency around the impact of agreements on MLEC**

AEMO also raised the concern that setting the optimised replacement costs to zero for specific assets was 'convoluted and opaque' which could weaken the ability for locational charges to send an effective signal.[174] The approach to optimised replacement costs is not novel, as transmission network pricing already requires such adjustments for other asset types.[175] Our rule provides a number of elements to make the impact of agreements on network pricing more transparent. Affected TNSPs will have to publish their transmission pricing methodology, including the MLEC and interconnector transfer amounts to be applied.[176] Relevant TNSPs also have to publish the agreement itself, providing transparency over which assets have been specified as having a zero optimised replacement cost for the purposes of MLEC.[177]

**Specified assets will only be removed from locational charging between the jurisdictions connected by a relevant interconnector**

To provide clarity, any transmission system assets specified in an agreement will only have its optimised replacement cost set to zero for the purposes of the MLEC calculation between the regions interconnected by the specified interconnector.[178] This means the optimised replacement cost of the specified assets will remain unchanged (i.e. will not be set to zero) for intra-regional MLEC calculations and for MLEC calculations between the affected CNSP's region and any other region whose jurisdiction is not party to the agreement. This also mitigates the concerns raised by AEMO and ENA as the impact of amending the optimised replacement cost for specified assets will only affect the inter-regional MLEC calculations for the interconnected regions.

**Jurisdictions are best placed to determine which transmission assets should be effectively removed from MLEC calculations**

Our final rule provides jurisdictions the discretion to specify which transmission system assets will have their optimised replacement costs set to zero. We have clarified that jurisdictions may choose not to specify any assets for the purposes of MLEC calculations.[179] Where an agreement does not specify any assets for the purposes of setting a zero optimised replacement cost, this effectively allows MLEC to operate as though no agreement were in place.

In response to the draft determination, ENA raised concerns with providing jurisdictions discretion to specify transmission system assets in agreements. ENA said that where an agreement specifies existing assets this would change the existing cost allocation for those assets.[180] ENA argues that this would introduce an additional distortion to inter-regional cost allocation. However, the Commission notes that where an agreement leads to the construction and operation of a new interconnector, the new interconnector will change both the electricity flows across the transmission system and the cost allocations for existing assets in any case. Given that the existing cost allocations are likely to change and that MLEC calculations for these assets might

173 Final rule, clause 6A.29.4(b)(7)(v).
174 Submission to the draft determination: AEMO, p.3.
175 Specifically, 'designated network assets' and 'identified user shared assets': NER S6A.3.3(1).
176 NER 6A.24.2(b)(1) and final rule 6A.24.2(b)(2).
177 Final rule, clause 6A.24.2(e).
178 Final rule, clause 6A.29.4(g).
179 Final rule, clause 6A.29.4(b)(7)(i).
180 Submission to the draft determination: ENA, pp. 2-3.

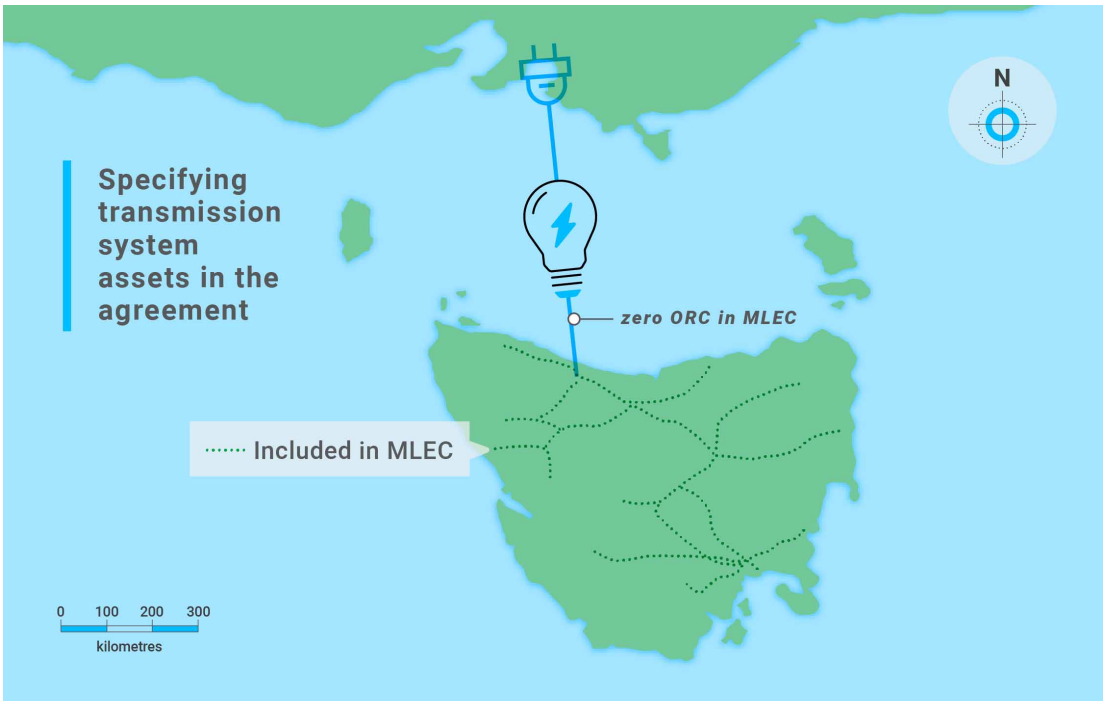
unwind agreed cost allocations, the Commission considers that jurisdictions should not be constrained. Jurisdictions are well placed to act in the best interests of their consumers, and to consider whether it is in the interests of their respective consumers to specify particular assets in an agreement.

### Box 17: Addressing the potential impact of MLEC on interconnector cost allocation outcomes

Requiring TNSPs to set the optimised replacement cost (ORC in the examples below) of transmission system assets in their MLEC calculations does not mitigate all potential impacts of MLEC. Jurisdictions may, however, wish to use the flexibility our final rule provides to address the broader impacts of MLEC.

One use of the rule is illustrated in Example 4.1 where the only transmission system asset that is specified in the agreement is the interconnector itself.

Example 4.1: Specifying only the interconnector as a transmission system asset to be set to zero for MLEC

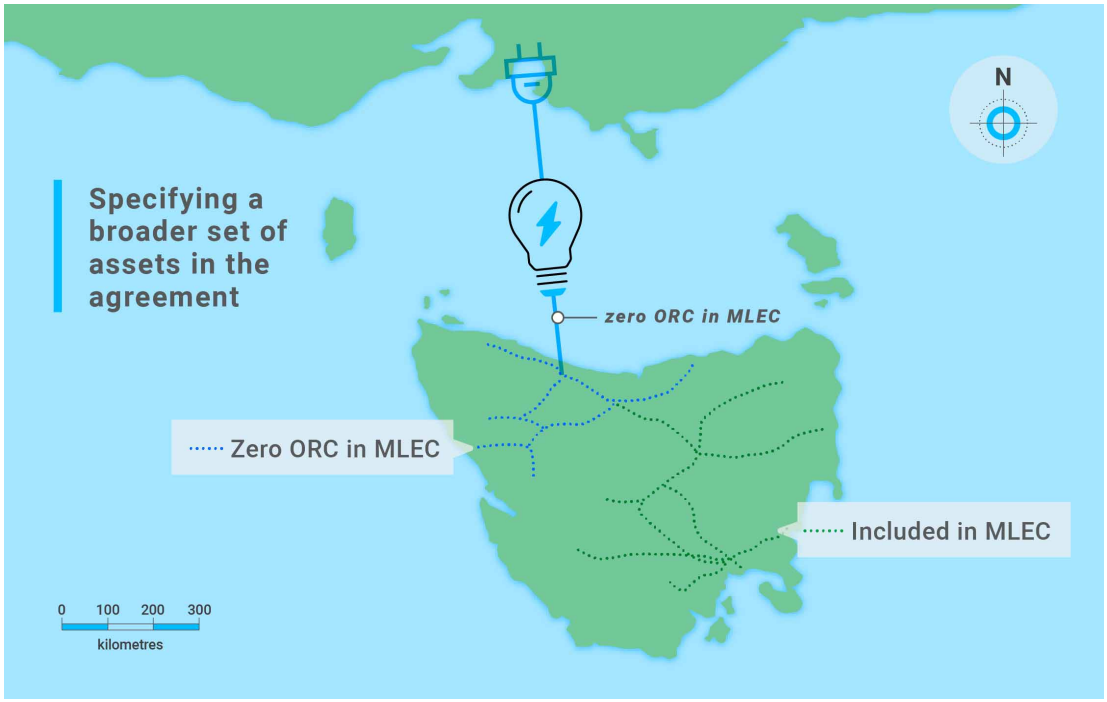



**An agreement may take a broader approach and specify more transmission system assets to be set to zero for MLEC**

Setting the optimised replacement cost of transmission assets specified in the agreement to zero for the MLEC calculations will not address all pricing impacts of interconnector flows on other transmission assets located in the region that are not specified in the agreement. Jurisdictions may wish to minimise these impacts on pricing by specifying additional transmission assets in the agreement for the purposes of MLEC calculation.[A] In giving effect to the agreement, the affected CNSPs would then run MLEC with a zero optimised replacement cost for all assets specified.[B]

Potential distortions to the agreed cost allocations caused by the operation of MLEC can be significantly reduced where this broader specification of the transmission system assets includes those assets most significantly impacted by the new interconnector. Example 4.2 provides an illustrative example of how an agreement may wish to specify additional assets.

Example 4.2: Specifying a broader set of assets in the agreement to be set to zero for MLEC




**An agreement may require CNSPs to subtract the estimated MLEC impact of interconnector demand flows**

Finally, in a complex integrated electricity grid, it may be difficult to determine exactly which transmission system assets should be specified in order to address any unintended impacts of MLEC. For jurisdictions who wish to minimise the MLEC impacts associated with the new interconnector, the rule provides that a valid agreement either specifies the interconnector transfer amount 'or the manner in which that amount is to be calculated'.[C]

In specifying the manner of calculation, agreements could, for example, require relevant CNSPs to subtract the MLEC pricing impacts arising from flows across the new interconnector from the interconnector transfer amount. It may be difficult for affected CNSPs to calculate the causality and quantum of flows, but we would expect jurisdictions to engage with potentially affected CNSPs around how this outcome is best achieved and contained in a prospective agreement.

Note: [A] See final rule, clause 6A.29.4(b)(7)(i).
Note: [B] See final rule, clause 6A.29.4(g).
Note: [C] See final rule, clause 6A.29.4(b)(7)(v).

### 4.4.6 Settlement residue auction proceeds

Our final rule does not provide for the agreement to alter the way that settlement residue auction (SRA) proceeds are currently allocated under the NER.[181]

The Commission has decided not to allow agreements to alter the allocation of SRA proceeds because the method of giving effect to these agreements should minimise distortions to the market. SRA proceeds reflect market processes. Other components of the pricing methodology (such as MLEC) directly reflect network use.

181 See NER clause 3.6.5 and rule 3.18.

Stakeholders did not raise matters related to SRA proceeds in their submissions. In further engagement, however, some stakeholders communicated the view that SRA proceeds are a market mechanism and therefore should not be in scope of this rule change.

# A Rule making process

A standard rule change request includes the following stages:

- a proponent submits a rule change request
- the Commission initiates the rule change process by publishing a consultation paper and seeking stakeholder feedback
- stakeholders lodge submissions on the consultation paper and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a draft determination and draft rule (if relevant)
  - stakeholders lodge submissions on the draft determination and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a final determination and final rule (if relevant).

You can find more information on the rule change process on our website.[182]

## A.1 The Ministers proposed a rule to enable flexibility in the allocation of interconnector costs

The Honourable Chris Bowen MP, Minister for Climate Change and Energy, The Honourable Lily D'Ambrosio MP, Minister for Energy and Resources and The Honourable Nick Duigan MLC, Minister for Energy and Renewables (the proponents or the Ministers) submitted this rule change request on 8 December 2023.

The proposal sought to provide an alternative pathway in the NER for the allocation of interconnector agreement costs by giving effect to inter-governmental agreements that determine the cost allocation for a specific interconnector. The proponents' proposed solution would require a written agreement to be submitted to the AER to enable it to make its determination on the validity of an interconnector agreement. In order for the AER to take an agreement into account, it would need to meet certain criteria. The rule change request proposed that AER guidelines could set out such criteria to provide high-level guidance to governments.

The proposal would not change the existing cost allocation framework in the NER for interconnectors where jurisdictions have not entered into an agreement on the allocation of interconnector costs. The proponents noted that under the proposed solution transmission projects would still need to pass the RIT-T and AEMO's feedback loop to ensure they generate net benefits for the NEM.

## A.2 The proposal addressed barriers in the regulatory framework to the delivery of net beneficial interconnectors

The Ministers identified that cost allocation issues may impact the ability of TNSPs and jurisdictions to progress interconnector projects which are net beneficial through the existing regulatory framework. The Ministers argued that the existing cost allocation framework for interconnectors in the NER and associated guidelines are not sufficiently flexible to resolve these issues.

These issues are explained in chapter 2 of the consultation paper for this rule change.[183]

182 See our website for more information on the rule change process: https://www.aemc.gov.au/our-work/changing-energy-rules

183 AEMC, Consultation paper - Providing flexibility in the allocation of interconnector costs, 14 March 2024, pp. 6-8.

The Ministers considered that without the rule change, actionable ISP interconnector projects may not be delivered and net market benefits to the NEM may go unrealised. Additional generation investment may be required to fill the gap that non-delivery of these projects would create to meet electricity demand, system security and reliability requirements, and to achieve jurisdictional emissions reduction targets and net zero commitments in the electricity sector.

## A.3 It proposed to do so by introducing flexibility into the NER by providing two pathways for the allocation of interconnector costs

The proposal from the Ministers seeks to improve the likelihood that net beneficial interconnectors are developed. It does this by introducing an alternative pathway in the NER for interconnector cost allocation to be determined by jurisdictions.

The proposal is explained in more detail in chapter 3 of the consultation paper for this rule change.[184]

## A.4 The process to date

On 14 March 2024, the Commission published a notice advising of the initiation of the rule making process and consultation in respect of the rule change request.[185] The Commission also published a consultation paper identifying specific issues for consultation. The Commission received 11 submissions on the consultation paper, two of which were late submissions. Issues raised in these submissions were summarised and responded to in the draft rule determination.

On 20 June 2024, the Commission published a draft rule determination including a draft rule. The Commission received 7 submissions on the draft rule determination. Issues raised in submissions are discussed and responded to throughout this final rule determination.

184 AEMC, Consultation paper - Providing flexibility in the allocation of interconnector costs, 14 March 2024, pp. 6-8.

185 This notice was published under section 95 of the NEL.

# B Regulatory impact analysis

The Commission has undertaken regulatory impact analysis to make its final rule determination.

## B.1 Our regulatory impact analysis methodology

**We considered a range of policy options**

The Commission compared a range of viable policy options that are within our statutory powers. The Commission analysed these options:

- the proposal in the rule change request
- a business-as-usual scenario where we do not make a rule; and
- a more preferable rule that provides greater clarity than the proposal in the rule change request in terms of revenue and pricing arrangements, roles and responsibilities of relevant parties and other implementation considerations and is, therefore, likely to better contribute to the achievement of the national electricity objective.

These options are described in chapter 2.

**We identified who will be affected and assessed the benefits and costs of each policy option**

The Commission's regulatory impact analysis for this rule change used qualitative methodologies. It involved identifying the stakeholders impacted and assessing the benefits and costs of policy options. The depth of analysis was commensurate with the potential impacts. The Commission focused on the types of impacts within the scope of the NEO.

Table B.1 summarises the regulatory impact analysis the Commission undertook for this rule change. Based on this regulatory impact analysis, the Commission evaluated the primary potential costs and benefits of policy options against the assessment criteria. The Commission's determination considered the benefits of the options minus the costs.

**Table B.1: Regulatory impact analysis methodology**

| Assessment criteria | Primary costs | Primary benefits | Stakeholders affected | Methodology<br>QT = quantitative, QL = qualitative |
|---|---|---|---|---|
| Emissions reduction | Nil. | Improves ability for generators (including renewables) to connect in the NEM, which is likely to reduce emissions. | • All Australians | QL: stakeholder feedback to assess all benefits and costs to the listed stakeholders |
| Principles of market efficiency | Nil | May allow net beneficial interconnector projects to progress when they may not have under the current arrangements. This would increase the ability of generators and storage providers to connect to the NEM, which may reduce wholesale prices. | • Generators and storage providers<br>• Consumers | QL: stakeholder feedback to assess all benefits and costs to the listed stakeholders. |
| Implementation considerations | TNSPs need to incorporate | Increased flexibility through additional | • Governments | QL: stakeholder feedback to assess all benefits and costs to the listed stakeholders |

| Assessment criteria | Primary costs | Primary benefits | Stakeholders affected | Methodology<br>QT = quantitative, QL = qualitative |
|---|---|---|---|---|
| | agreements into their pricing arrangements. The AER needs to validate agreements and incorporate them into revenue and pricing processes, and update it relevant guidelines. | cost allocation pathway may remove barriers to the development of interconnectors. Clarity and transparency in relation to how the draft rule would be implemented. | • AER<br>• AEMO<br>• TNSPs<br>• Intending TNSPs | |
| Principles of good regulatory practice | The draft rule would provide flexibility through an alternative process for jurisdictions to agree on interconnector cost allocation. The existing interconnector cost allocation rules remain in place for other interconnector | Allowing for jurisdictions to agree on alternative interconnector cost allocation may allow net beneficial interconnector projects to progress when they may not have otherwise. | • Governments<br>• AER<br>• AEMO<br>• TNSPs<br>• Intending TNSPs<br>• Generators and storage providers | QL: stakeholder feedback to assess all benefits and costs to the listed affected stakeholders |

| Assessment criteria | Primary costs | Primary benefits | Stakeholders affected | Methodology<br><br>QT = quantitative, QL = qualitative |
|---|---|---|---|---|
| | projects. Negotiation of agreements between governments has the potential to impact timeframes for projects. | | | |

# C Legal requirements to make a rule

This Appendix sets out the relevant legal requirements under the NEL for the Commission to make a final rule determination.

## C.1 Final rule determination and more preferable final rule

In accordance with section 102 of the NEL, the Commission has made this more preferable final rule and final determination in relation to the rule proposed by the Honourable Chris Bowen MP, Minister for Climate Change and Energy, The Honourable Lily D'Ambrosio MP, Minister for Energy and Resources and The Honourable Nick Duigan MLC, Minister for Energy and Renewables (the proponents or the Ministers).

The Commission's reasons for making this final rule determination and the more preferable final rule are set out in chapter 2.

A copy of the more preferable final rule is attached to and published with this final rule determination. Its key features are described in chapter 3 and chapter 4 and Appendix D.

## C.2 Power to make the rule

The Commission is satisfied that the more preferable final rule falls within the subject matter about which the Commission may make rules.

The more preferable final rule falls within section 34(1)(a)(iii) of the NEL as it relates to the activities of persons participating in the national electricity market or involved in the operation of the national electricity system.

In addition, the final rule falls within the matters in items 16(1), 16(2) and 20 of Schedule 1 to the NEL as it relates to:

- the regulation of prices charged, or that may be charged, by owners, controllers or operators of transmission systems for the provision by them of services that are the subject of a transmission determination;
- the regulation of prices that AEMO charges, or may charge, for the provision of shared transmission services;
- the economic framework, mechanisms or methodologies to be applied or determined by the AER for those purposes.

The more preferable final rule is likely to better contribute to achieving the NEO than the proposed rule by:

- **Promoting principles of market efficiency -** Our final rule determination supports the delivery of net beneficial interconnectors, which will enable increased generation assets to connect and reduce wholesale costs for consumers. It does this by providing a new pathway where governments would agree the specific cost allocation for the interconnector, while not altering the existing pathway in the NER for interconnector cost allocation where jurisdictions have not agreed to enter into an agreement.
- **Promoting principles of good regulatory practice -** Our final rule determination reduces uncertainty by specifying and clarifying matters related to the application of agreements. Our final rule also complements other reforms to promote the timely delivery of critical transmission projects, including other initiatives and new rules. We consider that the benefits of our final rule would outweigh the administrative costs.

- **Implementation considerations** - Our final rule determination supports timely delivery of interconnectors through the alternative cost allocation pathway by clarifying and specifying implementation matters. Our final rule supports the implementation of a successful market-wide solution by providing flexibility for an agreement to be made between two or more Ministers and requiring agreements to be published for transparency.
- **Supporting emissions reduction -** Our final rule determination will provide flexibility in interconnector cost allocation, removing barriers to the timely delivery of net beneficial interconnectors, and therefore efficiently contribute to achieving government targets for reducing Australia's greenhouse gas emissions.

The Commission's reasons are discussed in more detail in chapter 2.

## C.3 Commission's considerations

In assessing the rule change request the Commission considered:

- its powers under the NEL to make the final rule
- the rule change request
- submissions to the consultation paper and the draft determination
- the revenue and pricing principles
- the Commission's analysis as to the ways in which the more preferable final rule will or is likely to better contribute to the achievement of the NEO.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.[186]

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of AEMO's declared network functions.[187] The more preferable final rule is compatible with AEMO's declared network functions because it does not affect those functions. The final rule is consistent with AEMO's existing declared network functions and its role as CNSP in Victoria. See section 3.6 for more details.

## C.4 Making electricity rules in the Northern Territory

The NER, as amended from time to time, apply in the Northern Territory, subject to modifications set out in regulations made under the Northern Territory legislation adopting the NEL.[188] Under those regulations, only certain parts of the NER have been adopted in the Northern Territory.

The more preferable final rule does not relate to parts of the NER that apply in the Northern Territory as chapter 6A NER has no effect in that jurisdiction. As such, the Commission has not considered Northern Territory application issues.

186 Under s. 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. In December 2013, it became known as the Council of Australian Government (COAG) Energy Council. In May 2020, the Energy National Cabinet Reform Committee and the Energy Ministers' Meeting were established to replace the former COAG Energy Council.

187 Section 91(8) of the NEL.

188 These regulations under the NT Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modifications) Regulations 2016

# D Explanation of drafting approach

## D.1 Overview of the final rule

### D.1.1 New defined terms

The final rule introduces several key new concepts into the NER:

- The term 'interconnector cost allocation agreement' (agreement) is used to refer to the agreement between the Ministers for the regions affected by the cost transfer.
- The rules include a list of 'implementation criteria' that must be satisfied for the agreement to be treated as a valid agreement under the rules.
- The term 'specified interconnector' refers to the interconnector that an agreement relates to.
- The term 'implementation year' is used to refer to the financial years in which cost transfers are to be made. This allows for an agreement to be made while the specified interconnector is still under development, with cost transfers only commencing once the interconnector is in commercial operation. The implementation years align with financial years because this is the basis on which pricing is currently implemented (i.e. on a financial year basis).
- The term 'interconnector transfer amount' refers to the amount to be transferred in an implementation year from one region to another.
- The term 'total regional AARR' refers to all those amounts that are to be allocated by a CNSP for its region, which includes the interconnector transfer amount, as well as the AARR of the CNSP, the regional AARR of each other TNSP in the region, and any other allocation of AARR agreed by CNSPs under clause 6A.29.3.

### D.1.2 Implementation through the transmission pricing process

Once an agreement is made it must be provided to the TNSP for the specified interconnector in the region *from which* the costs are being transferred and to the CNSPs in the regions *to which* the costs are being transferred and who are responsible for allocating the interconnector transfer amount for implementation under the applicable provisions in the rules.

This would work as follows:

- The first step for the TNSP and CNSPs is to have the agreement taken into account in the approval process for its pricing methodology. This would occur either as part of the usual AER transmission determination process, or at any other time if the agreement is made or amended part way through the regulatory control period cycle.
- Once approved as part of the pricing methodologies, the TNSP and CNSPs would give effect to the agreement through the transmission pricing process in Part J of chapter 6A as follows:
  - Each year, the TNSP in the region from which the costs are being transferred, would notify the interconnector transfer amount to the CNSP for each region that interconnector costs are being transferred to.
  - The CNSPs in turn would include the amount in the allocation and adjustment process that is used to determine prices for its region and would pay the amount they are responsible for collecting to the TNSP.
  - Consequential adjustments would be made to the TNSP's AARR in the region from which the costs are being transferred, to avoid double counting.

### D.1.3 Description of new, amended and deleted provisions

The following table describes the draft rule in clause order and describes how and why relevant changes have been made.

**Table D.1: Overview of the final rule**

| Clause | Description of final rule |
|---|---|
| **Chapter 6A** | |
| 6A.10.1(c) | This minor drafting change completes the description of each Part in chapter 6A by adding a reference to Part D, which deals with Intending TNSPs. |
| 6A.10.1(j) | Rule 6A.10 deals with, among other things, the submission to the AER of a TNSP's proposed pricing methodology. New paragraph (j) requires the proposed pricing methodology of a TNSP for a specified interconnector to be accompanied by a copy of the agreement. |
| 6A.11.1(a)(7) | New clause 6A.11.1(a)(7) requires the AER to notify the TNSP if it considers that an agreement submitted with the TNSP's proposed pricing methodology does not satisfy the implementation criteria in proposed clause 6A.29.4(b). |
| 6A.14.3(f1) | New clause 6A.14.3(f1) requires that the AER does not approve a proposed pricing methodology for the TNSP for a specified interconnector under an agreement unless the AER is satisfied that the agreement satisfies all the implementation criteria in clause 6A.29.4(b). |
| 6A.15 | Rule 6A.15 provides for the AER to revoke a revenue determination or amend a pricing methodology for wrong information or error.<br><br>The current contents of the rule is renumbered as clause 6A.15.1, with consequential changes to the headings and relevant cross references.<br><br>A new clause 6A.15.2 is introduced which allows the AER to approve an amendment to a TNSP's existing pricing methodology during a regulatory control period if an agreement affecting that TNSP is made or amended.<br><br>The TNSP would apply to the AER to approve the amendment to its existing pricing methodology and include a copy of the agreement with its application. The application needs to be made at least nine months before the start of the first implementation year the new or amended agreement applies to.<br><br>The AER then publishes the application and the agreement. The AER assesses whether the agreement satisfies the implementation criteria in clause 6A.29.4(b) and whether the amendments to the pricing methodology are consistent with the requirements for pricing methodologies under chapter 6A. The AER does not have a role in assessing the merits of the allocation or agreement itself.<br><br>The AER is only able to approve amendments to the pricing methodology to the extent those amendments are |

| Clause | Description of final rule |
|---|---|
| | necessary to give effect to the agreement (or amendment to the agreement) and if the pricing methodology continues to comply with the requirements for a pricing methodology under chapter 6A. The AER is required to consult with other affected TNSPs before approving the amendment but otherwise has a discretion as to any other consultation it wishes to conduct.<br><br>This is different to the process that occurs where an agreement is submitted as part of the revenue determination process (i.e. commencing under clause 6A.10.1). This is because the revenue determination process already specifies consultation requirements. It is not the Commission's intention that the AER would be required to consult broadly on the amendments to a pricing methodology arising from an agreement. However, the Commission recognises that where the agreement is submitted as part of the revenue determination process, it will form part of that broader process. The AER is not required to consider or address stakeholder feedback received in relation to the agreement since the AER's role is limited to assessing whether the agreement satisfies the implementation criteria in clause 6A.29.4 and whether the amendments to the pricing methodology are consistent with the other requirements of chapter 6A. |
| Part J | In Part J and elsewhere in chapter 6A, both 'aggregate annual revenue requirement' and its short form 'AARR' are used. Similarly, both 'annual service revenue requirement' and its short form 'ASRR' are both used.<br><br>For consistency and ease of use when searching the rules, in the following provisions the short forms 'AARR' and 'ASRR' are now used in preference to the long form defined terms: clauses 6A.23.2, 6A.23.3, 6A.23.3A and 6A.23.4 and 6A.24.1(b). |
| 6A.22.1(3) (deleted) | Clause 6A.22.1 defines the aggregate annual revenue requirement, or 'AARR', of a TNSP. The AARR is based on the maximum allowed revenue, adjusted as specified in the clause.<br><br>At present, clause 6A.22.1(3) refers to the allocation agreed between TNSPs in accordance with clause 6A.29.3. The final rule removes this paragraph and instead the point is covered by the new definition of 'total regional AARR' in clause 6A.22.5(c). This is to clarify that the operation of this clause is intended to define the AARR of a TNSP with no adjustments. Subparagraph (3) was referring to an amount (under clause 6A.29.3) that does not adjust the AARR of a TNSP as such; rather clause 6A.29.3 allows for CNSPs to agree to one allocation across two regions. This adjustment has therefore been moved to the provision explaining how the total regional AARR for a region is calculated. This change is not intended to alter the way that TNSPs currently give effect to agreements under clause 6A.29.3. |

| Clause | Description of final rule |
|---|---|
| 6A.22.2 | Clause 6A.22.2 explains how the annual service revenue requirement or 'ASRR' is calculated for each category of prescribed transmission service of a TNSP.<br><br>For a CNSP, the amount used in the calculation is the 'total regional AARR' (now defined in clause 6A.22.5), which is its own AARR plus any AARR of other TNSPs within the region, plus the AARR of any TNSP in an interconnected region that it has agreed to allocate. Under the final rule, the interconnector transfer amount would also be added to the amount used to calculate ASRR amounts for the CNSP's region.<br><br>For the final rule wee have made amendments to simplify this provision and clarify that calculating ASRR is subject to the principles in clause 6A.23.2.<br><br>The calculation multiplies the TNSP's AARR by the attributable cost share for the relevant service category, and therefore paragraph (a) explicitly links to clause 6A.22.3, which sets out how the attributable cost share is determined.<br><br>We have also amended the chapter 10 term to be 'category of prescribed transmission services' (rather than 'categories'). |
| 6A.22.3 | Clause 6A.22.3 explains the meaning of attributable cost share and how it is determined. The final rule inserts a new paragraph (b) to explain how that occurs for a CNSP that is allocating the total regional AARR.<br><br>In addition, paragraph (e) is included to clarify that the determination of the attributable cost share for each category of prescribed transmission services is not impacted by the interconnector transfer amount. This is because the interconnector transfer amount is simply added, or subtracted, in the calculation of total regional AARR so will be allocated to services in the same ratio as all other components of the total regional AARR. |
| 6A.22.5 | New clause 6A.22.5 introduces the new definition for 'total regional AARR'.<br><br>The term 'total regional AARR' refers to all those amounts that are to be allocated by a CNSP for its region, which includes the interconnector transfer amount, as well as the AARR of the CNSP, the regional AARRs of each other TNSP in the region, and any other allocation of AARR agreed by CNSPs under clause 6A.29.3. |
| 6A.23.2 | Clause 6A.23.2 overlaps with clause 6A.22.2 since both deal with the calculation of the ASRR.<br><br>For the final rule the chapeau has been renumbered as paragraph (a) and amended to explain that the clause applies to the calculation of the ASRRs for a TNSP using its own AARR and the calculation of the ASRRs for a region using the total regional AARR. New paragraph (a1) in turn explains how the calculations are made. |

| Clause | Description of final rule |
|---|---|
| | New paragraph (c1) extends to the total regional AARR the existing principle that all AARR must be allocated and that it must be allocated only once.<br><br>Paragraph (d) has been moved to clause 6A.22.3 (with some drafting changes) since it is dealing with transmission system asset cost allocation, which is an input into the calculation of attributable cost shares.<br><br>The addition of paragraph (e) clarifies that the interconnector transfer amount alters the total amount to be allocated through the total regional AARR (when applicable). |
| 6A.23.3(h) | The form of paragraph (h) has been updated to reflect the amendments made by other recent rule changes. An adjustment has been made to the new form of paragraph (h) to reinstate wording that was omitted when the form of the paragraph was amended. |
| 6A.24.1(b1)(1) | Clause 6A.24.1(b1) describes the required contents of the pricing methodology of a CNSP. A consequential change is made to subparagraph (1) covering the CNSP's responsibilities for allocation and related adjustments for its region. |
| 6A.24.1(b2) | A new clause 6A.24.2(b2) is added that applies to the pricing methodology of the TNSP and CNSPs responsible for giving effect to an interconnector cost allocation through the pricing arrangements in chapter 6A. It requires the pricing methodologies to provide for the recovery from the appropriate region of applicable interconnector transfer amounts in accordance with chapter 6A.<br><br>The clause is intended to reflect the following principles:<br>• The TNSP and CNSPs are not parties to the agreement and it is not intended that agreement can impose obligations directly on them. The means by which TNSPs and CNSPs give effect to the required transfers is solely by performing their obligations under chapter 6A.<br>• In addition, the agreement itself can only be given effect to in the manner provided for in chapter 6A and it is not intended that the agreement itself can modify chapter 6A or the obligations of the TNSP or CNSPs under chapter 6A. |
| 6A.24.2 | Clause 6A.24.2 deals with publication of pricing methodologies and prices. Paragraph (b), which sets out requirements applicable to CNSPs, is amended to require the CNSP to publish details of any interconnector transfer amounts that it has been required to allocate.<br><br>A new paragraph (e) requires the TNSP for a specified interconnector to publish the relevant agreement and the total |

| Clause | Description of final rule |
|---|---|
| | interconnector transfer amounts to be allocated in the upcoming implementation year (i.e. financial year). |
| 6A.24.3 | Clause 6A.24.3 deals with the basis for setting prices where approval of a pricing methodology is delayed and prices for the coming financial year need to be set. The clause is extended to allow for delay to a request to approve an amendment to a pricing methodology under new clause 6A.15.2 and to explain which interconnector transfer amount is used if there is a delay.<br><br>If the AER has made a draft decision approving the proposed pricing methodology the interconnector transfer amount would be calculated using the agreement provided for in that methodology.<br><br>Otherwise, consistent with current clause 6A.24.3, the arrangements from the prior year are rolled forward for a year and this would include rolling forward the prior year's calculation of the interconnector transfer amount – which, in the case of a new agreement, would be zero. |
| 6A.25.2(g) | Clause 6A.25.2 describes the required contents of the AER's pricing methodology guidelines.<br><br>A consequential change is made to paragraph (g)(1) to align it with the new approach to clause 6A.24.1(b1)(1). |
| 6A.29.1 | Clause 6A.29.1 establishes the arrangements that apply where there are multiple TNSPs within a region. Paragraph (a) provides for the TNSPs in the region to appoint a CNSP and states that the CNSP is responsible for allocating all AARR within the region and any AARR it has agreed to allocate under clause 6A.29.3.<br><br>The final rule retains the arrangements for appointment of a CNSP in paragraph (a), with some minor drafting changes removing the concept of 'appointing providers', to clarify the clause.<br><br>The final rule inserts new paragraph (b), which specifies that AEMO is the CNSP for a region that includes the whole or the major part of the declared shared network (i.e. Victoria). This paragraph was relocated to here from S6A.4.2. The final rule also inserts a new paragraph (c), which specifies that where only one TNSP provides prescribed transmission services in a region, that TNSP is taken to be the CNSP for the region for the purpose of chapter 6A and a related clause in chapter 2. This replaces old clause 6A.29.2.<br><br>The remainder of former clause 6A.29.1 becomes clause 6A.29.2. |
| 6A.29.1A | New clause 6A.29.1A(a) is old clause 6A.29.1(b) and states that each TNSP calculates its own AARR for each region it operates in.<br><br>Paragraph (b) reflects the requirement in clause 6A.29.4(h), which requires a TNSP to deduct the relevant |

| Clause | Description of final rule |
|---|---|
| | interconnector transfer amount from the AARR for a region to avoid any double counting. This paragraph clarifies this step occurs when the TNSP is determining its AARR.<br><br>Paragraph (c) is based on old clause 6A.29.1(e) and requires each TNSP in a region that is not the CNSP to notify its AARR for the region to the CNSP and other information required by the CNSP. |
| 6A.29.2(a) (was part of 6A.29.1(a)) | New clause 6A.29.2 deals with the responsibilities of a CNSP (some of which are taken from previous clause 6A.29.1).<br><br>New paragraph (a) explains that these responsibilities cover both allocation of the total regional AARR and the allocation of the ASRR for services in the region to connection points as provided for in clause 6A.24.1. The draft rule listed the components to be allocated but for the final rule the list has been moved to the definition of total regional AARR. |
| 6A.29.2(b) (was 6A.29.1(b)) | Current clause 6A.29.1(b) requires a TNSP (that is not the CNSP) to give the CNSP information it needs to allocate the TNSP's AARR. The clause is relocated to be clause 6A.29.1A(a). |
| Former 6A.29.1(c) | Paragraph (c) of current clause 6A.29.1 has the effect that the total AARR of all TNSPs within a region must be used by the CNSP for allocation purposes. The clause is deleted as the requirement is covered in the definition of total regional AARR. |
| 6A.29.2(b) (was 6A.29.1(d)) | Current clause 6A.29.1(c) explains that the CNSP undertakes the allocation process for all transmission connection points in the region and so exempts other TNSPs from dealing with certain matters in their pricing methodologies. The clause is renumbered and consequential drafting changes are made. |
| Former 6A.29.2(e) | Current clause 6A.29.1(e) requires a TNSP (that is not the CNSP) to promptly provide information reasonably requested by the CNSP to enable the CNSP to properly perform its functions under Part J. This paragraph is moved to clause 6A.29.1A and amended. |
| 6A.29.2(c) (was 6A.29.1(f)) | Current clause 6A.29.1(f) is renumbered and drafting changes are made to reflect the changes elsewhere in the clause. The reference to old paragraph (d) is omitted. |
| Former clause 6A.29.1(g) | Paragraph (g) of current clause 6A.29.1 currently explains that where there is only one TNSP in a region, references to a CNSP in provisions dealing with NTP function expenditure are taken to be a reference to the TNSP. The draft rule deletes paragraph (g) and instead deals with the point in clause 6A.29.1(c). |
| Former clause 6A.29.2 | Current clause 6A.29.2 explains that in regions where only one TNSP provides prescribed transmission services, that TNSP is responsible for the allocation of AARR within the region. Chapter 6A has several other clauses along similar |

| Clause | Description of final rule |
|---|---|
| | lines. The final rule instead includes a new paragraph (c) in clause 6A.29.1 to provide that where only one TNSP provides prescribed transmission services in a region, that TNSP is taken to be the CNSP for the region for the purpose of chapter 6A and a related clause in chapter 2.<br><br>Old clause 6A.29.2 is therefore deleted and replaced with a new clause dealing with the functions of a CNSP and related obligations of other TNSPs within a region. |
| 6A.29.3(a) | Clause 6A.29.3 allows for the allocation of AARR of several regions as one process, if agreed by the TNSPs responsible for allocation within those regions. Drafting changes are made to reflect that this will be the CNSP and that the CNSP undertakes the allocation and makes the related adjustments. |
| 6A.29.4 | New clause 6A.29.4 provides for allocation of interconnector costs to other regions in accordance with an agreement. |
| 6A.29.4(a) | Paragraph (a) in the new clause sets out two new local definitions used only in the new clause. Other definitions introduced by the draft rule are global definitions defined in Chapter 10.<br><br>• The term 'relevant Minister' defines when a Minister would be the Minister for a region. Neither the Commonwealth nor ACT Ministers will be a 'relevant Minister' for any region; otherwise it is each Minister with any part of its jurisdiction in the region. In practice this means that unless regional boundaries change, there will be one relevant Minister for each region, since the regional boundaries currently align with jurisdictional boundaries.<br>• The term 'qualifying interconnector' defines when an interconnector qualifies to be a specified interconnector that an agreement can apply to. The definition covers (in summary) interconnectors converting from network market service provision after 3 October 2024 (in practice, potentially Basslink), interconnectors that commence construction after 3 October 2024 (in practice, excluding Project Energy Connect) and interconnectors that are materially upgraded after 3 October 2024 as part of an actionable ISP project. The date of 3 October 2024 is the date the final rule was made. |
| 6A.29.4(b) | Paragraph (b) in the new clause sets out the implementation criteria that must be satisfied by an agreement if it is to be implemented through approved pricing methodologies of the TNSP and CNSP.<br><br>Paragraph (b)(2) requires the agreement to state that it is made for the purposes of clause 6A.29.4. Paragraphs (b)(3) and (4) require the agreement to identify the specified interconnector that it relates to, which must be a qualifying interconnector, and that the interconnector must not provide market network services at any time the cost transfer arrangements are operating. |

| Clause | Description of final rule |
|---|---|
| | Paragraph (b)(5) specifies that the parties to the agreement must be all the relevant Ministers; but other Ministers could also be a party by choice.<br><br>Paragraph (b)(6) states that the agreement must be binding and executed as a deed and not to be subject to any unfulfilled conditions.<br><br>Paragraph (b)(7) provides that the agreement must specify all of the following matters:<br><br>• the transmission system assets, if any, to which paragraph (g) applies (which are the assets to be used for the purposes of calculating MLEC),<br>• the TNSP for the specified interconnector, being the TNSP in the region from which the interconnector costs are being transferred (and noting that the TNSP may also operate in the adjacent jurisdiction if it owns the whole interconnector, or that it may only own those parts of the interconnector assets in its own region),<br>• each CNSP responsible for allocation of an interconnector transfer amount as part of the allocation of the total regional AARR,<br>• each implementation year applicable to the agreement, and<br>• the interconnector transfer amount to be allocated by each responsible CNSP in each implementation year, or the manner in which that amount is to be calculated.<br><br>The clause also requires a certified copy of the agreement to have been provided to the TNSP and each CNSP.<br><br>For an agreement that is being submitted as part of a proposal under clause 6A.10.1, this will need to be at least 17 months before the start of the first implementation year (refer to clause 6A.10.1(a)), and in practice before then in order for the TNSP to be able to take the agreement into account in its proposal. For an application to amend a pricing methodology under clause 6A.15.2 the agreement will be needed at least nine months before the start of the first implementation year that the new or amended agreement applies to. This timing requirement is necessary to ensure the agreement is provided in time to be implemented in accordance with the existing processes under the NER for TNSPs to submit pricing methodologies with their revenue proposals to the AER and to subsequently implement pricing.<br><br>Paragraph (b)(9) provides that where the region of a responsible CNSP contains the ACT, the agreement is required to contain a statement confirming that the Minister for the ACT has been consulted in relation to the agreement and, |

| Clause | Description of final rule |
|---|---|
| | where applicable, any amendment to it. In practice, under this current arrangement whereby regions are generally aligned with state boundaries, this means the NSW region. |
| 6A.29.4(c) to (f) | Paragraphs (c) to (f) of new clause 6A.29.4 provide the details for implementation of the interconnector cost transfer. This can only occur where the TNSP's pricing methodology provides for giving effect to the agreement in accordance with the Rules. Where that condition is satisfied, the TNSP is required to, first, calculate the interconnector transfer amount (or amounts) each year in accordance with the agreement, and, second, to notify those amounts to the responsible CNSPs. The TNSP is also required to provide any other information needed by the CNSP to implement the agreement.<br><br>The CNSP is then required to pay the interconnector transfer amount to the TNSP in monthly instalments. |
| 6A.29.4(g) to (i) | Paragraphs (g) to (i) provide for adjustments to avoid double counting or other distortions.<br><br>Paragraph (g) requires an adjustment to the optimised replacement costs used for calculating modified load export charges payable to or by the CNSPs for the regions that are interconnected by the specified interconnector, to avoid the interconnector transfer amount that has been deducted from a region flowing back through modified load export charges to that region.<br><br>Paragraph (h) requires the AARRs used for allocation by a CNSP in a region to be reduced by the interconnector transfer amounts that are being collected in another region. The reason for this adjustment is explained above in relation to clause 6A.29.1A(b).<br><br>Paragraph (i) confirms that if a CNSP pays an interconnector transfer amount to the TNSP for a specified interconnector, it is not required to pay the same amount under other provisions (such as clause 6A.27.4). |
| 6A.29.4(j) and (k) | These paragraphs require the TNSP under an agreement to apply under clause 6A.15.2 for an amendment to its pricing methodology if an agreement is provided to the TNSP, or if the agreement is amended, during a regulatory control period. The CNSP may do so, but it is not required to unless the specified conditions are met. These paragraphs also recognise that the TNSP (and CNSP if applicable) will also need to submit the agreement with a proposed pricing methodology at the beginning of the next regulatory control period under 6A.10.1(j) so that the changes continue to apply for future regulatory control periods as well.<br><br>The final rule includes the words "within sufficient time to enable the application to be made" to recognise the timing constraints. The TNSP or CNSP can only facilitate the incorporation of the agreement in its pricing methodology where |

| Clause | Description of final rule |
|---|---|
| | it receives the agreement with sufficient lead time to meet the existing processes, and associated timing constraints, under the NER. |
| 6A.29A.1 | This clause is deleted because it is replaced by new clause 6A.29.1(c), which specifies that where there is only one TNSP in a region, that TNSP is the CNSP. |
| Schedule 6A.4 | Schedule 6A.4 explains how chapter 6A applies to AEMO. |
| S6A.4.2(f)(1.) substituted paragraph(b)(1) of clause 6A.10.1 | The provision stated that AEMO's pricing methodology must be designed to recover no more than its maximum allowed revenue (MAR) for the provision of prescribed shared transmission services. However, as CNSP, AEMO will need to recover the total regional AARR for the Victorian region, although AEMO's MAR will continue to be only for provision of prescribed shared transmission services.<br><br>The final rule amends the provision with the requirements for AEMO's pricing methodology to allow AEMO's pricing methodology to reflect its role as CNSP. In addition, total regional AARR has a modified definition for AEMO, as explained below. |
| S6A.4.2(k)(1.) | The definition of 'total regional AARR' is set out in new clause 6A.22.5. This item of the Schedule modifies how it applies to AEMO by substituting paragraphs (a) and (b) of that definition.<br><br>Paragraph (a) is what used to be in S6A.4.2(f)(1.)(b)(1) and paragraph (b) accounts for TNSPs that are not DTSOs in Victoria (e.g. Marinus Link and potentially Basslink if it converts). |
| S6A.4.2(k)(1.) | The current rules add additional paragraphs in 6A.23.3 as (g) and (h). These deal with responsibility for the allocation of the ASRR to connection points for different service categories in the Victorian region. Clause 6A.23.3 already has paragraphs (g) and (h) but rather than change the numbering, the final rule relocates the provisions to rule 6A.29 as this is the rule describing responsibilities for allocations in regions with multiple TNSPs. The provisions are inserted as new clause 6A.29.2A. |
| S6A.4.2(k)(5.) | The final rule relocates this from the Schedule to the body of chapter 6A as 6A.29.1(b) so that it sits with the other provisions defining who the CNPS are. |
| S6A.4.2(k)(6.) | This item clarifies the interaction between clause 6A.29.2 and clause 6A.29.2A as inserted by item 7. |
| S6A.4.2(k)(7.) | This item inserts a new clause S6A.29.2A that replaces the modifications that were 6A.23.3(g) and (h). |
| **Chapter 10** | |
| Category of prescribed | For the most part, the singular is used in chapter 6A and so the final rule amends the chapter 10 definition to reflect |

| Clause | Description of final rule |
|---|---|
| transmission services | this. |
| Co-ordinating Network Service Provider | The defined term is amended to include a reference to the TNSP taken to be a CNSP under clause 6A.29.1. |
| Implementation year | This new term refers to a financial year for which a CNSP is to allocate an interconnector transfer amount in respect of the specified interconnector to which the agreement relates. |
| Interconnected | This new term clarifies the phrase 'interconnected region' which is used in chapter 6A but not separately defined. |
| Interconnector cost allocation agreement | This new term refers to an agreement between two or more Ministers which is expressed in the agreement to be made for the purposes of clause 6A.29.4. |
| Interconnector transfer amount | This new term refers to the amounts specified in, or calculated in accordance with, an agreement that a CNSP is responsible for allocating as part of the total regional AARR. |
| Regulated interconnector | This defined term is used in several places in chapter 3 including in relation to settlement residues, the application of market prices caps and settlement residue auctions.<br>The term as currently defined (including under deeming provisions in chapter 9) does not extend to new interconnectors. The draft rule amends the defined term to include specified interconnectors. |
| Specified interconnector | The defined term refers to clause 6A.29.4(b)(2), which requires the interconnector cost allocation agreement to identify the interconnector that it relates to. |
| Total regional AARR | Has the meaning given to it in clause 6A.22.5, which is all the amounts that are to be allocated by a CNSP for its region, which includes the interconnector transfer amount, as well as the AARR of the CNSP, the AARRs of each other TNSP in the region, and any other allocation of AARR agreed by CNSPs under clause 6A.29.3. |
| **Chapter 11** | |
| New rule | A transitional rule requires the AER to review and where it considers it necessary or desirable, to amend the pricing methodology guidelines and the information guidelines so that they can be updated to reflect the new requirements in the final rule. The AER must do this by 1 July 2025, following which, the new framework can be used.<br>The final rule also allows AEMO to review and, where it considers it necessary or desirable, amend and publish its affected revenue methodology to take into account the Amending Rule. In doing so, the final rule exempts AEMO from the requirement to consult with the public under clause S6A.4.2(c)(3) if making any such amendments. |

Source: AEMC

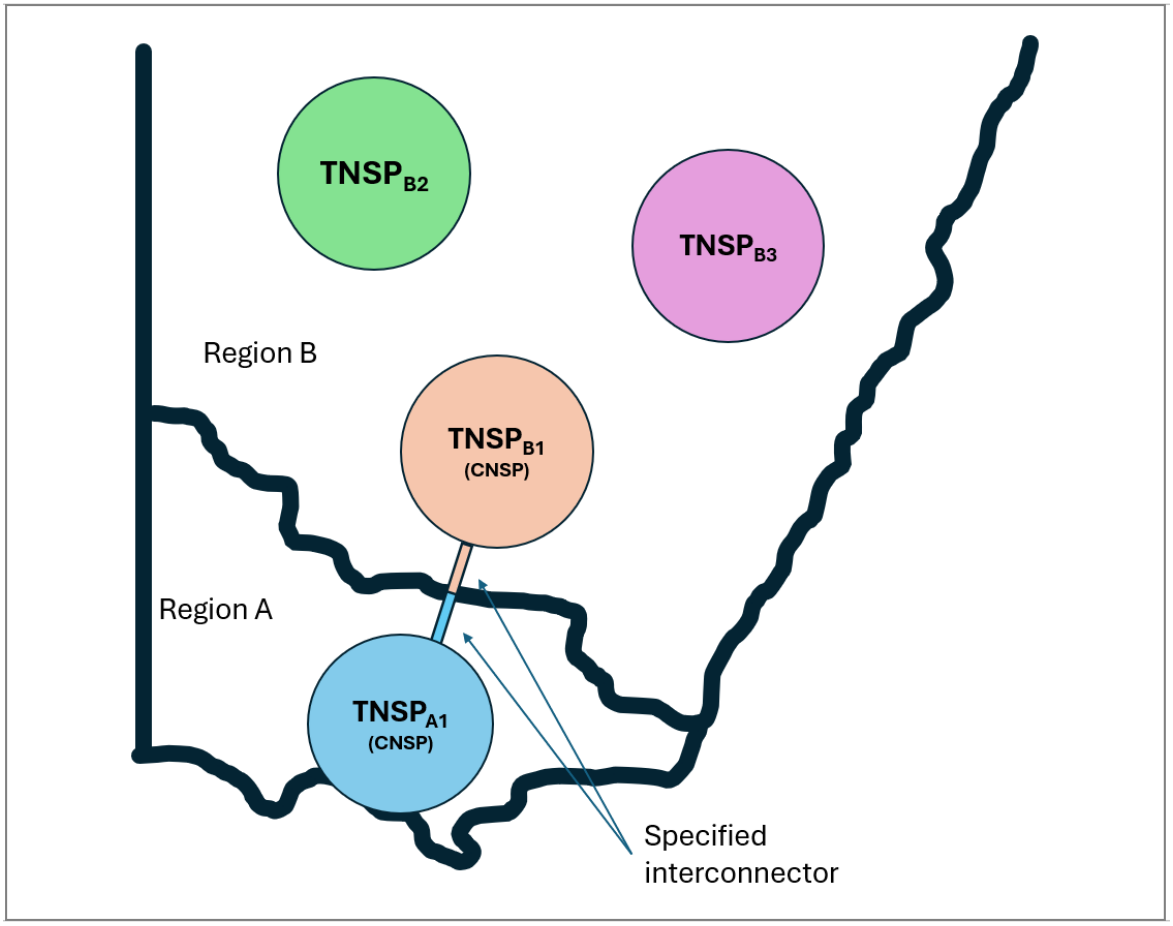
# E How the final rule could give effect to agreements through transmission pricing: worked examples

## E.1 Integrated interconnector

### E.1.1 Scenario

- An interconnector is to be built by the two existing TNSPs on either side of their region's border. An example of this could be a hypothetical project similar to Project EnergyConnect interconnector (which also crosses a third region).
- $TNSP_{A1}$ is in Region A; $TNSP_{B1}$ is in Region B. Both TNSPs are also the CNSPs for their respective regions.
- The assets on each side of the border will form part of the relevant TNSP's asset base, along with other existing assets of the TNSP. The project costs are about the same on either side of the border and it is estimated that $500 million will enter each TNSP's RAB for the assets forming part of the interconnector that each respectively owns.
- Each TNSP's transmission determination will therefore reflect the costs, including opex and the return on and return of capital, associated with the part of the interconnector it owns. However, neither transmission determination will separately identify these costs.
- The additional amount of annual revenue attributable to these interconnector costs, to be collected by each TNSP, is estimated at $30 million per year in each region. The actual annual amount over the life of the asset will depend on the transmission determination process.
- The result is that of a total of an estimated $60 million per year for the interconnector as a whole, 50% is collected in each region.
- The Ministers for Regions A and B agree that Region A should instead pay for 40% of the annual costs, and Region B should pay for 60%.
- The Ministers (presumably in consultation with the AER and TNSPs, but that is not required by the final rule) agree a methodology for calculating the interconnector transfer amount that would achieve their preferred split of annual costs between regions.
- For example, the methodology might work on the basis that if the annual costs attributable to the interconnector is $30 million in each region, the amount to be transferred to give a 40:60 split would be $6 million from Region B to Region A. Using the same methodology, if the total annual cost were $15 million ($7.5 million in each region), the amount to be transferred would be $1.5 million.
- Alternatively, the Ministers might agree a fixed amount such that regardless of actual cost outcomes over time, the transfer is always $2 million (real) from Region B to Region A.
- The Ministers put in place an interconnector cost allocation agreement that specifies that the agreement is in effect for 15 years from the start of flows on the new interconnector.
- The interconnector will take 10 years to build.

**Figure E.1: Illustrative example of an integrated interconnector**




### E.1.2 Giving effect to the agreement

- The agreement will specify the time from which cost transfers need to be implemented. This seems most likely to be once operation commences but the rules are flexible on this to allow for the flexibility that now also exists in the transmission determination process to support financeability.
- The first financial year that cost transfers are to be implemented is the first implementation year.
- TNSP$_{A1}$ will inform TNSP$_{B1}$, as the CNSP for Region B, of the amount of the interconnector transfer amount that the CNSP will need to recover as part of the total regional AARR from Region B for each implementation year, calculated applying the methodology in the agreement.[189]
- TNSP$_{A1}$ will publish the agreement and interconnector transfer amounts notified to TNSP$_{B1}$ (as CNSP for region B).[190]
- TNSP$_{B1}$, as the CNSP for Region B, will add the interconnector transfer amount to the total regional AARR for Region B .[191]

189 Final rule, clauses 6A.29.1A(c), 6A.29.2(a) and 6A.22.5(d).
190 Final rule, clause 6A.24.2(e).
191 Final rule, clauses 6A.22.5(d) and 6A.29.2(a)(1).

- As CNSP, $TNSP_{B1}$ will be required to publish, by 15 March, the interconnector transfer amounts to be allocated in the upcoming year.[192] As $TNSP_{B1}$ is also a TNSP for the specified interconnector in this case, it must also publish the agreement.[193]
- Over the course of the financial year, $TNSP_B$, as CNSP, makes payments in equal monthly instalments of the interconnector transfer amount to $TNSP_A$.[194]
- $TNSP_A$ makes a corresponding reduction to its AARR for Region A of the interconnector transfer amount to avoid double counting since that amount is being recovered from consumers in Region B and therefore, does not need to be recovered from consumers in region A.[195]
- The impacts of the agreement can be simplified in a table:

**Table E.1: Simplified impacts of agreement: integrated interconnector (m = million)**

| | Interconnector AARR raised through TNSPs | | AARR recovered by TNSPs who built and own the Interconnector | |
|---|---|---|---|---|
| | Region $_A$ | Region $_B$ | $TNSP_A$ | $TNSP_B$ |
| **Pre-agreement** | $30m | $30m | $30m | $30m |
| **Post-agreement** | $24m | $36m | $30m | $30m |

Note: To simplify this example, we have not incorporated the impact of MLEC and settlement residue auction proceeds.

### E.1.3 MLEC

- As CNSPs, $TNSP_{A1}$ and $TNSP_{B1}$ will run the pricing model which determines MLEC to derive the locational component of transmission pricing.
- For any transmission system assets specified in the agreement, $TNSP_{A1}$ and $TNSP_{B1}$ set the 'optimised replacement cost' to zero for the purpose of modelling inter-regional flows. This ensures that the contribution of inter-regional demand, through the interconnector connection points, do not flow through to the locational signals in prices which could potentially unwind the cost allocations agreed to in the agreement. [196]
- $TNSP_{A1}$ does this for the modelling of flows from Region A to Region B. $TNSP_{B1}$ does this for the modelling of flows from Region B to Region A. However, $TNSP_{B1}$ would not also, for example, do this for the modelling of flows from Region B to Region C. This adjustment to MLEC only applies to the regions interconnected by the specified interconnector.

## E.2 Standalone interconnector

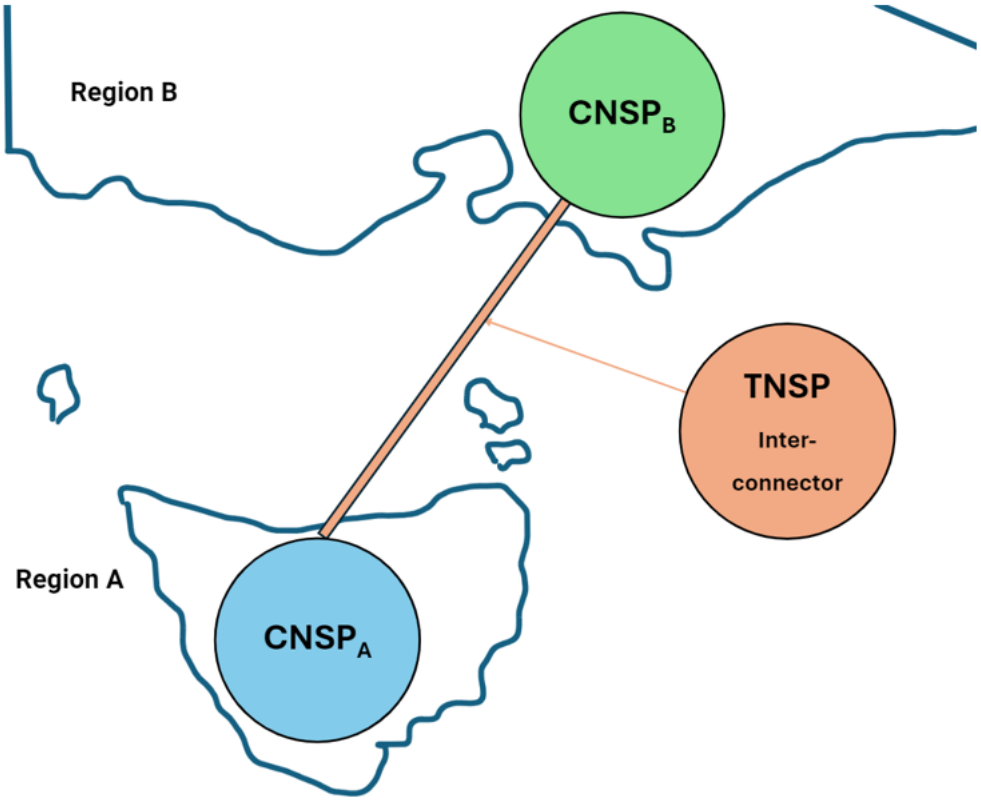
### E.2.1 Scenario

- An interconnector is to be built and will be owned by a TNSP for whom the interconnector represents the entirety of their regulated assets. An example of a standalone interconnector could be a hypothetical project similar to Basslink which is owned by APA Group and is not part of a broader collection of assets providing transmission services within Victoria or Tasmania.

192 Final rule, clause 6A.24.2(b)(2).
193 Final rule, clause 6A.24.2(e).
194 Final rule, clause 6A.29.4(f).
195 Final rule, clause 6A.29.4(h).
196 Final rule, clause 6A.29.4(g). For a discussion on how jurisdictions may choose to use the flexibility in the rule to alter the impacts of MLEC, see chapter 4.

- The interconnector TNSP ($TNSP_{Interconnector}$) connects to $CNSP_A$ in Region A and $CNSP_B$ in Region B.
- The costs of construction and eventual asset base for $TNSP_{Interconnector}$ will be $800 million.
- The transmission determination of $TNSP_{Interconnector}$ will only relate to the costs, including opex and the return on and return of capital, associated with the interconnector it owns.
- The amount of annual revenue attributable to the interconnector is estimated at a total of $50 million per year. The actual annual amount over the life of the asset will depend on the transmission determination process.
- Without an interconnector cost allocation agreement, the operation of the rules would result in Region A contributing around 70% of the annual costs, and Region B around 30%, through the annual AARR allocation process conducted by the CNSP in each region.
- The Ministers for Regions A and B reach an agreement that requires that Region A and Region B pay for 50% of the annual costs respectively.
- The agreement has a methodology for working out the interconnector transfer amount to give effect to this agreement. It is a simple formula which requires the $TNSP_{Interconnector}$ to compare the 70% of the AARR each year to 50%, with the difference being the interconnector transfer amount from Region B to Region A.
- The agreement specifies that it will have effect for the economic life of the interconnector (40 years), or until the agreement is amended.
- The interconnector will take 10 years to build.

**Figure E.2: Illustrative example of a standalone interconnector**



### E.2.2 Giving effect to the agreement

- From the first implementation year, $TNSP_{Interconnector}$ works out the amount of its AARR to be collected in each region using the 50:50 split. It then notifies these amounts to $CNSP_A$ and $CNSP_B$. This is done as part of setting annual transmission pricing. [197]
- $CNSP_B$ adds the interconnector transfer amount to the total regional AARR for Region B .[198]
- $TNSP_{Interconnector}$ is required to publish the agreement and the interconnector transfer amounts to be allocated by the CNSP in the upcoming financial year.[199]
- Over the course of the year, $CNSP_B$ makes payments in equal monthly instalments of the interconnector transfer amount to $TNSP_{Interconnector}$.[200]
- $CNSP_A$ and $CNSP_B$ also transfer the part of the total regional AARR of $TNSP_{Interconnector}$ that they have collected in their respective regions in the usual way.[201]
- The result is that $TNSP_{Interconnector}$ receives its total AARR for the year from Regions A and B with customers in each of Regions A and B funding those costs equally in accordance with the 50:50 split set out in the agreement.
- The impacts of the agreement can be simplified in a table:

**Table E.2: Simplified impacts of agreement: standalone interconnector (m = million)**

| | Interconnector AARR raised through TNSPs | | AARR recovered by TNSPs who built and own the Interconnector |
|---|---|---|---|
| | Region $_A$ | Region $_B$ | $TNSP_{Interconnector}$ |
| **Pre-agreement** | $35m | $15m | $50m |
| **Post-agreement** | $25m | $25m | $50m |

Note: To simplify this example, we have not incorporated the impact of MLEC and settlement residue auction proceeds.

### E.2.3 MLEC

- $CNSP_A$ and $CNSP_B$ will run the pricing model which determines MLEC to derive the locational component of transmission pricing.
- $CNSP_A$ does this for the modelling of flows from Region A to Region B. $CNSP_B$ does this for the modelling of flows from Region B to Region A.
- The 'optimised replacement cost' of any transmission system assets specified in the agreement are set to zero for the purpose of MLEC modelling. This ensures that the contribution of inter-regional demand, through the interconnector connection points, do not flow through to the locational signals in prices which could potentially undermine the cost allocations agreed to in the agreement.[202] $CNSP_B$ would not set optimised replacement costs to zero for specified assets for the modelling of flows from Region B to Region C. This adjustment to MLEC only applies to the MLEC charges between the regions interconnected by the specified interconnector.

197 Strictly, the TNSP calculates its AARR for each region using the 70:30 split, then reduces its AARR for Region A by the interconnector transfer amount and notifies that amount to the CNSP for Region A, and then notifies its AARR for Region B plus the interconnector transfer amount to the CNSP for Region B.

198 Final rule, clause 6A.22.5(d) and 6A.29.2(a)(1).

199 Final rule, clause 6A.24.2(e).

200 Final rule, clause 6A.29.4(f).

201 NER, clause 6A.27.4.

202 Final rule, clause 6A.29.4(g). For a discussion on how jurisdictions may choose to use the flexibility in the rule to alter the impacts of MLEC, see chapter 4.

# Abbreviations and defined terms

| | |
|---|---|
| AARR | Aggregate annual revenue requirement |
| AEMC | Australian Energy Market Commission |
| AEMO | Australian Energy Market Operator |
| AER | Australian Energy Regulator |
| Agreement | Interconnector cost allocation agreement |
| ASRR | Annual service revenue requirement |
| CNSP | Coordinating network service provider |
| CEFC | Clean Energy Finance Corporation |
| Commission | See AEMC |
| DTSO | Declared transmission system operator |
| ECMC | Energy and Climate Change Ministerial Council |
| ENA | Energy Networks Australia |
| EUAA | Energy Users Association of Australia |
| ISP | Integrated System Plan |
| MAR | Maximum allowed revenue |
| MLEC | Modified load export charge |
| MNSP | Market network service provider |
| NEL | National Electricity Law |
| NEM | National Energy Market |
| NEO | National Electricity Objective |
| NER | National Electricity Rules |
| NT Act | *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015* |
| NTP | National Transmission Planner |
| ODP | Optimal Development Path |
| ORC | Optimised replacement cost |
| PIAC | Public Interest Advocacy Centre |
| Proponent | The individual / organisation who submitted the rule change request to the Commission |
| Relevant Minister | The Minister for a region |
| RIT-T | Regulatory investment test for transmission |
| SRA | Settlement residue auction |
| TNSP | Transmission network service provider |
| TUOS | Transmission use of system |
| VNI | Victoria to New South Wales Interconnector |