



National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9

under the National Electricity Law as applied by:

- (a) the National Electricity (South Australia) Act 1996;
- (b) the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;

- (c) the National Electricity (New South Wales) Act 1997 of New South Wales;
- (d) the Electricity - National Scheme (Queensland) Act 1997 of Queensland;
- (e) the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;
- (f) the National Electricity (Victoria) Act 2005 of Victoria; and

- (g) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Electricity Law.

John Tamblyn
Chairman
Australian Energy Market Commission

National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9

1. Title of Rule

This Rule is the *National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9*.

2. Commencement

This Rule commences operation on 23 October 2008.

3. Amendment of the National Electricity Rules

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

Schedule 1 Amendment of National Electricity Rules

(Clause 3)

[1] Clause 5.6.2A Annual Planning Report

At the end of clause 5.6.2A(ii), omit “and”.

[2] Clause 5.6.2A Annual Planning Report

Omit the "." at the end of clause 5.6.2A(b)(5)(iii) and substitute:

; and

(6) for all proposed *replacement transmission network assets*:

- (i) a brief description of the new *replacement transmission network asset* project, including location;
- (ii) the date from which the *Transmission Network Service Provider* proposes that the proposed new *replacement transmission network asset* will become operational;
- (iii) the purpose of the proposed new *replacement transmission network asset*;
- (iv) a list of any reasonable *network* or *non-network* alternatives to the proposed new *replacement transmission network asset* which are being, or have been, considered by the *Transmission Network Service Provider* (if any). Those alternatives include, but are not limited to, *interconnectors*, *generation* options, *demand side* options, *market network service* options and options involving other *transmission* or *distribution networks*; and
- (v) the *Transmission Network Service Provider's* estimated total capitalised expenditure on the proposed new *replacement transmission network asset*.

[2] Clause 5.6.6C Review of total capitalised expenditure thresholds

Insert the following new clause after clause 5.6.6B:

5.6.6C Review of total capitalised expenditure thresholds

- (a) Every 3 years the *AER* must undertake a review (*the ‘total capitalised expenditure threshold review’*) of the changes in the input costs used to calculate the *total capitalised expenditure thresholds*. The purpose of the review is to determine whether those amounts need to be changed to maintain the value of the *total capitalised expenditure thresholds* over time by adjustment to reflect any increase or decrease in the input costs for *new transmission network investment* since:

- (1) 1 July 2008 in respect of the first *total capitalised expenditure threshold review*; and
 - (2) the date of the previous review in respect of every subsequent *total capitalised expenditure threshold review*.
- (b) Each *total capitalised expenditure threshold review* is to be commenced by the AER on 31 July of the relevant year, with the first such review to be initiated in 2011.
- (c) Within 6 weeks following the commencement of a *total capitalised expenditure threshold review* the AER must *publish* a draft determination outlining:
- (1) whether or not the AER has formed the view that any of the *total capitalised expenditure thresholds* need to be amended to reflect increases or decreases in the input costs to ensure that the value of the *total capitalised expenditure thresholds* is maintained over time;
 - (2) its reasons for determining whether or not the *total capitalised expenditure thresholds* need to be varied to reflect increases or decreases in the input costs;
 - (3) if there is to be a variation in a *total capitalised expenditure threshold*, the amount of the new *total capitalised expenditure threshold* and the date the new *total capitalised expenditure threshold* will take effect; and
 - (4) its reasons for determining the amount of the new *total capitalised expenditure threshold*.
- (d) At the same time as it *publishes* the draft determination under clause 5.6.6C(c), the AER must *publish* a notice seeking submissions on the draft determination. The notice is to specify the period within which written submissions can be made (the '*total capitalised expenditure threshold consultation period*'). The *total capitalised expenditure threshold consultation period* must be no longer than 5 weeks.
- (e) The AER is to consider any written submissions received during the *total capitalised expenditure threshold consultation period* in making its final determination in respect of the matters outlined in clause 5.6.6C(c). This final determination must be made and *published* by the AER within 5 weeks following the end of the *total capitalised expenditure threshold consultation period*.
- (f) The new *total capitalised expenditure thresholds* (if any) will take effect to vary the then current *total capitalised expenditure thresholds* with effect from the relevant date specified in the *total capitalised expenditure threshold determination*.

[3] Clause 9.3.2 Network Service Provider

Insert after clause 9.3.2(c):

- (d) *VENCorp* must obtain the information from *SPI PowerNet* which *VENCorp* is required by clause 5.6.2A to publish in the *Annual Planning Report* in relation to *replacement transmission network assets*. *SPI PowerNet* must provide that information to *VENCorp* by 28 February in each year.

[4] Chapter 10 Amended Definitions

In Chapter 10, omit the following definitions and substitute:

new large transmission network asset

An asset of a *Transmission Network Service Provider* which is an *augmentation* and in relation to which the *Transmission Network Service Provider* has estimated it will be required to invest a total capitalised expenditure in excess of \$20 million (as varied in accordance with a *total capitalised expenditure threshold determination*).

new small transmission network asset

An asset of a *Transmission Network Service Provider* which is an *augmentation* and:

- (a) in relation to which the *Transmission Network Service Provider* has estimated it will be required to invest a total capitalised expenditure in excess of \$5 million (as varied in accordance with a *total capitalised expenditure threshold determination*); and
- (b) is not a *new large transmission network asset*.

[5] Chapter 10 New definitions

In Chapter 10, insert the following new definitions in alphabetical order:

replacement transmission network asset

A new asset of a *Transmission Network Service Provider* that will replace any existing element of its *transmission network* in respect of which the *Transmission Network Service Provider* reasonably estimates it will be required to invest total capitalised expenditure in excess of \$5 million (as varied in accordance with a *total capitalised expenditure threshold determination*). For the avoidance of doubt, if the expenditure on replacing any existing element also results in an *augmentation* to the network, then such an asset shall be included in this definition where the *Transmission Network Service Provider* has estimated that the asset will have a total capitalised expenditure in excess of \$5 million.

total capitalised expenditure threshold

Means each of the following amounts:

- (a) the total capitalised expenditure in excess of \$20 million referred to in the definition of "new large transmission network asset";
- (b) the total capitalised expenditure in excess of \$5 million referred to in the definition of "new small transmission network asset"; and
- (c) the total capitalised expenditure in excess of \$5 million referred to in the definition of "replacement transmission network asset".

total capitalised expenditure threshold consultation period

Has the meaning given in clause 5.6.6C(d).

total capitalised expenditure threshold determination

Means a determination made by the *AER* in accordance with clause 5.6.6C(e).

total capitalised expenditure threshold review

Has the meaning given in clause 5.6.6C(a).

[6] Chapter 11 Savings and Transitional Rules

After rule 11.21, insert:

Part R Regulatory Test Thresholds and Information Disclosure on Network Replacements

11.22 Rules consequential on the making of the National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9

11.22.1 Definitions

In this rule 11.22:

amended definitions means the definitions of "new large transmission network asset" and "new small transmission network asset" as amended by the Amending Rule.

Amending Rule means the National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9.

commencement date means the date on which the Amending Rule commences operation.

old definitions means the definitions of "new large transmission network asset" and "new small transmission network asset" as in force immediately before the commencement date.

11.22.2 Amending Rule does not affect existing regulatory test

The old definitions continue to apply in place of the amended definitions following the commencement date in respect of:

- (a) a *new small transmission network asset* for which a *Transmission Network Service Provider* has set out the matters required under clauses 5.6.2A(b)(4) and (5) in an *Annual Planning Report published* prior to the commencement date;
- (b) a *new small transmission network asset* not identified in an *Annual Planning Report* for which a *Transmission Network Service Provider* has *published* a report required under clause 5.6.6A(c) prior to the commencement date; and
- (c) a *new large transmission network asset* for which a *Transmission Network Service Provider* has taken an action or commenced a process under the *Rules* which relies on or is referenced to the *Regulatory Test* (such as *publishing* an application notice under clause 5.6.6(c)) that has not completed prior to the commencement date.

END OF RULE AS MADE
