



Australian Energy Market Commission

CONSULTATION PAPER – PROPOSED SAVINGS AND TRANSITIONAL RULE

**National Electricity Amendment (Transmission
Connection and Planning Arrangements) Rule
2016**

Rule Proponent(s)
COAG Energy Council

12 January 2017

**RULE
CHANGE**

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About the AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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1 Introduction

1.1 Rule change request

On 27 July 2015, the COAG Energy Council made a request to the Australian Energy Market Commission (AEMC or Commission) to make a rule regarding transmission connection and planning arrangements (rule change request).

The rule change request is largely based on the connections and planning recommendations made by the AEMC in the Transmission Frameworks Review.¹ The objective of the recommendations made by the AEMC in that review was to improve transparency, contestability and clarity in the connections frameworks while maintaining clear accountability for shared network outcomes, and to enhance the transmission planning and decision making frameworks.

1.2 Draft rule determination

On 24 November 2016 the AEMC published a draft determination and draft Rule on the rule change request. The draft determination, draft Rule and other documents are available on the AEMC website.²

1.3 This consultation paper

1.3.1 Objective and scope

The draft determination described the Commission's proposed approach to the implementation of the draft Rule, including the interim steps that would need to be undertaken by industry and market institutions to support implementation. However, the draft Rule itself did not contain savings or transitional provisions. The purpose of this paper is to set out, and seek stakeholder feedback on, the Commission's proposed savings and transitional Rule³ to implement the draft Rule. Specifically, the Commission is seeking stakeholder comment on the way in which the draft Rule is proposed to be implemented, rather than the policy intent of the draft Rule itself. Submissions on the policy intent of the draft Rule should be made in submissions to the draft determination, which the Commission will take into account when developing the final Rule.

This paper assumes that a final Rule is made in the same form as the draft Rule (referred to throughout this paper as the amending Rule). It should therefore be read in conjunction with the relevant parts of the draft Rule and draft determination that were published on 24 November 2016.

¹ See <http://www.aemc.gov.au/Markets-Reviews-Advice/Transmission-Frameworks-Review>

² <http://www.aemc.gov.au/Rule-Changes/Transmission-Connection-and-Planning-Arrangements>

³ Set out in appendix A.

1.3.2 Commencement and implementation dates

The proposed savings and transitional Rule does not contain a specific commencement date or specific dates for each implementation requirement. Rather, the relevant dates are expressed as minimum timeframes.

The commencement of the connections aspects of the rule change is expressed as a date that is not less than 12 months following publication of the final Rule. References throughout this paper to 'commencement date', therefore, refer to this timeframe.

The savings and transitional Rule (and the planning aspects of this rule change) will commence on the date the final Rule is made. As such, the proposed savings and transitional Rule specifies a required date for each of the various implementation requirements as a date no less than [X] months prior to the commencement date. For example, the proposed savings and transitional Rule requires the AER to amend and publish the electricity network service provider registration guidelines to take account of the amending Rule no less than four months prior to the commencement date.

The purpose of expressing the commencement date and implementation requirement dates in this way is to seek feedback from market participants and industry on the amount of time needed to comply with the various implementation requirements and prepare for compliance with the amending Rule.

The final Rule will contain a specific commencement date and specific dates for each implementation requirement, which will be based on stakeholder feedback on this paper and the date of the publication of the final determination and final Rule. Under the current statutory timeline, the AEMC is due to publish a final determination and final Rule on this rule change request by 9 March 2017. If the AEMC published the final determination and final Rule later than that date, the commencement and implementation dates in the savings and transitional Rules would be adjusted accordingly.

Table 1.1 summarises the key implementation requirements that are set out in the proposed savings and transitional Rule, and which are discussed in this paper.

Table 1.1 Key implementation requirements under the proposed savings and transitional Rule

Date	Requirement
The date the final Rule is made	Planning aspects of amending Rule commence.
Not less than four months prior to the commencement date	AER to amend and publish the electricity network service provider registration exemption guideline to take account of the amending Rule, the new sub-category of TNSP registration (the dedicated connection asset service provider) and the conditions that apply to exemptions granted by the AER in relation to persons who own a third party IUSA from the requirement to register a network service provider.

Date	Requirement
Not less than three months prior to the commencement date	AEMO to develop an application form for registration of Network Service Providers (network service providers) to take account of the amending Rule, including the new sub-category of TNSP registration (the dedicated connection asset service provider) and to allow TNSPs to classify those parts of its transmission system that are dedicated connection assets as large dedicated connection assets or small dedicated connection assets.
Not less than two months prior to the commencement date	Existing DCA Owners registered (or exempt) with respect to a dedicated connection asset required to notify the AER of certain information about their existing dedicated connection assets.
By 31 December 2017	AER to develop and publish a guideline on the consistency of transmission Annual Planning Reports.
By the commencement date	AER to establish and publish a register of Existing DCA Owners that have notified (as per the above) the AER of existing dedicated connection assets.
A date that is not less than 12 months after the final Rule is made (i.e. the commencement date)	Connections aspects of amending Rule commence.
A date that is not less than six months from the date the guideline on the consistency of transmission Annual Planning Reports is published by the AER	TNSPs required to comply with the planning aspects of the amending Rule.

1.4 Rule change timeline

The timeline for this rule change request is set out in Table 1.2.

Table 1.2 Rule change timeline

Milestone	Date
Publication of consultation paper	26 November 2015
Close of submissions on consultation paper	28 January 2016
Stakeholder workshop (connections)	9 March 2016

Milestone	Date
Stakeholder workshop (planning)	21 April 2016
Publication of discussion paper	26 May 2016
Public forum on discussion paper	16 June 2016
Close of submissions on discussion paper	30 June 2016
Publication of draft determination and draft Rule	24 November 2016
Stakeholder meetings	December 2016 - January 2017
Publication of consultation paper on proposed savings and transitional Rule	12 January 2017
Close of submissions on draft determination and draft Rule	27 January 2017
Close of submissions on paper on proposed savings and transitional Rule	10 February 2017
Publication of final determination and final Rule	9 March 2017

1.5 Process for making a submission

We invite stakeholders to provide written comments on this consultation paper and the proposed savings and transitional Rule by 10 February 2017.

Submissions and requests for a hearing should quote project number ERC0192 and may be lodged online at www.aemc.gov.au or by mail to:

Australian Energy Market Commission
PO Box A22449 SYDNEY SOUTH NSW 1235

If you would like to discuss this paper, or the draft determination itself, with the AEMC, please contact Claire Richards on (02) 8296 7878 or at claire.richards@aemc.gov.au to arrange a meeting.

1.6 Structure of this consultation paper

The remainder of this paper is structured as follows:

- Section 2 sets out the Commission's proposed approach to the implementation of the connections aspects of the amending Rule;
- Section 3 sets out the Commission's proposed approach to the implementation of the planning aspects of the amending Rule; and
- Appendix A contains the Commission's proposed savings and transitional Rule.

2 Connections

2.1 Overview of draft Rule

This section sets out the Commission's proposed approach to the implementation of the connections aspects of the draft Rule, including the interim steps that would need to be undertaken by industry and market institutions to support implementation. It largely reflects what is set out in chapter 5 of the draft determination.⁴ However, if there is an inconsistency between what was presented in that chapter and what is in this consultation paper, the information in this paper takes precedence.

The draft Rule makes a number of amendments to the transmission connections framework in the National Electricity Rules (the Rules). In summary, the draft Rule:

- clarifies many existing aspects of the connection process and the framework for economic regulation of services required to connect generators, loads and market network service providers (MNSPs) to the shared transmission network in order to remove ambiguity and scope for interpretation;
- introduces the terms dedicated connection asset⁵ and identified user shared asset⁶ to clarify the two types of assets that provide the services required to connect to the shared transmission network, and establishes a clear distinction between the way in which services provided by means of these two types of assets are regulated and the obligations of the parties who own, control and operate them;
- introduces contestability for the detailed design, construction and ownership of identified user shared assets - where these assets or components of these assets meet certain criteria to be classified as contestable - and classifies these services as non-regulated transmission services that can be provided by any party on commercial terms;
- maintains that the Primary transmission network service provider (TNSP)⁷ remains accountable for outcomes on the shared network, even if parts of it (i.e.

⁴ See <http://www.aemc.gov.au/getattachment/ea4a611d-a7bb-466e-82e0-80337450b53a/Draft-determination.aspx>

⁵ This term is defined in the draft Rule and is used to describe the collection of components that are used to connect a generator, load or MNSP to the 'shared' transmission network and which, once commissioned, are able to be isolated from electricity flows on the shared transmission network, for example the power line that connects parts of a substation to a generating system.

⁶ This term is defined in the draft Rule and is used to describe the collection of components that are used to connect a generator, load or MNSP to the 'shared' transmission network and which, once commissioned, form part of the 'shared' transmission network, for example parts of a substation.

⁷ Primary TNSP is a new term, defined in the draft Rule as "The Transmission Network Service Provider who operates the largest transmission network in each participating jurisdiction (other than an adoptive jurisdiction)."

identified user shared assets) are designed, built and owned by other parties, by requiring such parties to enter into a network operating agreement with the Primary TNSP to give effect to such an outcome;⁸

- provides a process by which either the connecting party or the TNSP can request the engagement of an independent engineer to provide advice on a technical issue related to a connection;
- strengthens the principles that underpin negotiations for services required to connect to the shared transmission network and removes the requirement for TNSPs to develop individual negotiated transmission service criteria and negotiating frameworks for approval by the Australian Energy Regulator (AER);
- enhances the transparency of the connection process by requiring TNSPs to publish certain information about the specifics of connecting to their network on their websites and provide certain information to the connection applicant on request;
- clarifies the process that applies to the resolution of disputes raised in relation to transmission connections;
- clarifies that all services provided for new dedicated connection assets, including design, construction, ownership, operation and maintenance, are non-regulated transmission services and can be provided by any party on commercial terms;
- requires parties who own, operate or control a dedicated connection asset to register with the Australian Energy Market Operator (AEMO), or be exempted from the requirement to register, and to classify their dedicated connection assets as either small (under 30km total route length) or large (over 30km total route length);
- sets up a framework by which parties can negotiate access to the services provided by means of a large dedicated connection asset; and
- provides clarity about the point at which a large dedicated connection asset is considered to be providing shared transmission services rather than connection services, for example if a distribution network service provider (DNSP) connects to that asset.

Further detail on these changes, and the rationale for the Commission's draft decision, can be found in chapter 4 and appendices B to F of the draft determination.

None of these aspects of the draft Rule would apply in jurisdictions where AEMO is authorised to exercise declared network functions, i.e. Victoria. As such, the proposed

⁸ Or, if the third party owner of the IUSA is registered as a TNSP, it would need to enter into arrangements for the provision of operation and maintenance services from the Primary TNSP as negotiated transmission services.

savings and transitional Rule in this paper seeks to preserve the application of the existing Rules in declared network jurisdictions. This is discussed further in section 2.5.

2.2 Commencement date

The draft determination proposed a commencement date of 1 January 2018 for the connections aspects of the amending Rule. This gave parties approximately nine months after the publication of the final determination to put in place the necessary arrangements to comply with the amending Rule. However, initial feedback from market institutions has indicated that nine months will not be sufficient time for them to undertake the steps required under the proposed savings and transitional Rule to prepare for the commencement of the new Rule.

Accordingly, the proposed savings and transitional Rule in appendix A of this paper proposes a commencement date for the connections aspects of the rule change that is no earlier than twelve months after the publication of the final Rule and final determination.⁹ The AEMC understands that the AER and AEMO are comfortable with this timing. Any party seeking connection to the transmission network after that date will do so under the new Rules.

The Commission considers that this provides sufficient time for:

- TNSPs to develop and publish the information required by the new transparency provisions on their websites;
- TNSPs to review and amend their internal systems, procedures and/or guidelines to reflect the new arrangements;
- connecting parties to familiarise themselves with the new arrangements;
- AEMO to amend relevant application forms and procedures regarding registration as a dedicated connection asset service provider with respect to the ownership, operation or control of a dedicated connection asset, and as a TNSP with respect to the ownership of an identified user shared asset;
- the AER to amend relevant guidelines and procedures regarding exemptions from the requirement to register as a dedicated connection asset service provider with respect to the ownership, operation or control of a dedicated connection asset, or as a TNSP with respect to the ownership of an identified user shared asset, including to accommodate the conditions set out in the amending Rule for exemptions of this kind;
- the AER to develop procedures relating to the approval of access policies for large dedicated connection assets;
- the AER to make any changes needed in relation to its approach for negotiated transmission services; and

⁹ See clause 11.xx.1 of the proposed savings and transitional Rule.

- the wholesale electricity market dispute resolution adviser to establish a pool of independent engineers.

The three key aspects of the connections framework (i.e. changes to the connection process, arrangements for identified user shared assets, and arrangements for dedicated connection assets) have been designed as an integrated, holistic package to improve transparency, contestability and clarity in the connections framework while maintaining clear accountability for shared network outcomes. Given this, the Commission considers that all of these arrangements should be implemented at the same time.

Box 2.1 Impact on existing TNSP negotiating frameworks

Currently, under the existing arrangements, TNSPs' negotiating frameworks are approved by the AER as part of their transmission determination. As discussed in appendix C.2 of the draft determination, the draft Rule removes the requirement for TNSPs to produce negotiating frameworks for approval by the AER, and for the AER to specify negotiated transmission service criteria that apply to TNSPs. Instead, the amending Rule updates and expands the existing negotiating principles in the Rules, which cover the provision of negotiated transmission services.

When the amending Rule comes into effect, TNSPs will be required to comply with the expanded negotiating principles contained in the amending Rule. The amending Rule simply elevates what is in the existing approved negotiating frameworks and negotiated transmission service criteria into the Rules, and adds new principles in order to strengthen the arrangements. This means that there is a low risk of any inconsistency between any negotiating frameworks and negotiated transmission service criteria in transmission determinations in place on the commencement date and the requirements in the amending Rule. Further, connecting parties should be advantaged by the amending Rule, and so we do not consider that there would be any concerns in relation to this.

The Commission understands that the AER is comfortable with this approach. This is the only component of a TNSP's revenue determination that will be affected by the amending Rule.

The alternative would be to wait until each TNSP's revenue determination has ended in order to apply the new Rules to the relevant TNSP. This would be undesirable since:

- given that the recommendations are a 'package' and should be implemented as such, it would mean delaying the implementation of the connections framework for a number of years (in some cases to 2022); and
- it would mean that the connections framework would start at different times in different jurisdictions, potentially creating distortions in investment between jurisdictions.

2.3 Implementation requirements

Before the commencement date, various parties must undertake a number of interim steps in order to be able to comply with the amending Rule. Some of these interim steps are set out as requirements in the proposed savings and transitional Rule.

Specifically, the proposed savings and transitional Rule requires:

- by a date that is not less than three months prior to the commencement date, AEMO to develop an application form for registration of Network Service Providers to take account of the amending Rule,¹⁰ including to reflect the new sub-category of TNSP registration (the dedicated connection asset service provider). This form will also need to allow TNSPs to classify those parts of its transmission system that are dedicated connection assets as large dedicated connection assets or small dedicated connection assets. AEMO will likely also need to put in place, and consult on, other arrangements to develop this new sub-category of TNSP registration.
- by a date that is not less than four months prior to the commencement date, the AER to amend and publish the guidelines developed under clause 2.5.1(d) of the Rules - i.e. the electricity network service provider registration exemption guideline - to take account of the amending Rule.¹¹ These guidelines will need to reflect the conditions that apply to exemptions from the requirement to:
 - register as a dedicated connection asset service provider with respect to the ownership, operation or control of a dedicated connection asset; and
 - register as an TNSP with respect to the ownership of an identified user shared asset, specifically those set out in clause 2.5.1(d3)-(d5) of the draft Rule.¹²

While not set out as a requirement in the proposed savings and transitional Rule, there are a number of steps other parties will need to take before the commencement date in order to be able to comply with the new Rule on and from the commencement date.

For example, TNSPs will need to:

- develop, and publish on their websites, the information set out in Schedule 5.10 of the draft Rule;
- modify their business processes to take account of the fact that connection applicants may request further information in relation to a particular connection under Schedule 5.10 of the draft Rule;

¹⁰ See clause 11.xx.3(c) of the proposed savings and transitional Rule.

¹¹ See clause 11.xx.3(a) of the proposed savings and transitional Rule.

¹² The draft Rule requires that any exemption granted by the AER with respect to such a person be subject to the condition that the person: not engage in, or be a related entity of a person that is engaged in, the activity of owning, controlling or operating a generating system that is connected to that identified user shared asset; must have entered into a network operating agreement for that third party IUSA; and comply with any conditions imposed by the AER for that exemption.

- review and update their internal systems, procedures and/or guidelines to reflect the new arrangements, for example by amending standard form connection agreements to comply with the new inclusions for connection agreements.

The Commission also expects that the more resourced and experienced connecting parties will review and update their internal systems and procedures in order to take account of the new process for negotiating a connection to the transmission network.

The AER will need to put in place procedures relating to its function of approving and enforcing access policies for dedicated connection asset service providers with large dedicated connection assets, as per clause 5.2.7(c) and 5.2A.8 of the draft Rule.

The wholesale electricity market dispute resolution adviser will need to establish a pool of persons from which the independent engineer may be selected in accordance with clause 5.4 of the draft Rule.

As noted above, the Commission considers that the timeframe between the proposed date for the final determination to be published, and the implementation dates set out above, gives the above parties sufficient time to undertake these steps.

2.4 Transitional arrangements

2.4.1 Connection agreements and enquiries

The Commission recognises that there will be a number of connection agreements already in place, and connection enquiries underway, when the amending Rule commences.

Existing connection agreements

The proposed savings and transitional Rule does not affect connection agreements entered into prior to the commencement date.¹³ The arrangements that apply to connections under those agreements will therefore be unchanged by the amending Rule while those agreements are in place.

Amendments to existing connection agreements

If a connecting party wishes to modify the connection service provided under an existing connection agreement (i.e. one that was entered into prior to the commencement date of the amending Rule) after the commencement date, the amending Rule would apply to the modification of the connection service under that connection agreement.¹⁴ As such, the classification of services as either negotiated transmission services or non-regulated transmission services that is given effect

¹³ See clause 11.xx.4(a) of the proposed savings and transitional Rule.

¹⁴ See clause 11.xx.4(b) of the proposed savings and transitional Rule.

through the amending Rule would apply to the provision of those new or altered services.

For example, connection agreements that were entered into after 2006 and before the commencement date of the amending Rule may cover the provision of both negotiated transmission services and non-regulated transmission services for a connection. If a connecting party seeks modification of such a connection agreement after the commencement date for the purposes of altering a service provided under that agreement, the arrangements under the amending Rule would apply to that modification.

For example, if the modification involved a new identified user shared asset that met the contestability criteria set out in the amending Rule, then the detailed design, construction and ownership of that asset would be contestable, and the services provided as non-regulated transmission services,¹⁵ whereas previously, those services would have been provided by the incumbent TNSP as negotiated transmission services under the connection agreement prior to its amendment. Similarly, if the service modification involved a new dedicated connection asset, then all services for that asset would be contestable, non-regulated transmission services and the provisions regarding classification of, and access to, that asset under the amending Rule would apply.¹⁶

Connection agreements entered into before 2006 are likely to cover the provision of prescribed transmission services for a connection, but may also include some non-regulated transmission services. Clause 11.6.11 of the Rules sets out the effect of an amendment to a prescribed service under such a connection agreement. As explained in Box 2.2, if the transmission network user who is party to such a connection agreement requests an amendment after the commencement date of the amending Rule for the purpose of altering a service under that agreement (for example providing increased power transfer capability at the connection point), then the amending Rule would apply to the provision of that altered service.

Box 2.2 Interaction between the proposed savings and transitional Rule and clause 11.6.11 of the Rules

Clause 11.6.11 of the Rules grandfathers certain connection services (i.e. entry and exit services) that are being provided under certain connection agreements as prescribed transmission services.¹⁷

¹⁵ See appendix B of the draft determination.

¹⁶ See appendix D of the draft determination.

¹⁷ Clause 11.6.11 was implemented by two separate rule changes. The Economic Regulation of Transmission Services rule change, made in 2006, introduced Chapter 6A of the Rules. Clause 11.6.11 of the Rules was introduced to grandfather existing connection services as prescribed transmission services to minimise the impact of the rule change on those existing arrangements. Clause 11.6.11 was amended in 2009 under the Cost Allocation Arrangements for Transmission Services rule change, which clarified the scope and application of the grandfathering arrangements. Further information about these rule changes is available on the AEMC website.

As set out above, the proposed savings and transitional Rule grandfathers connection agreements entered into prior to the commencement date of the amending Rule from the application of this rule change. However, similar to the approach taken in clause 11.6.11, this grandfathering arrangement also ends if the transmission network user requests an amendment to the connection agreement for the purpose of altering a service under that agreement. If the amendment to the connection service involves the provision of new assets or changes to existing assets (for example to provide an upgraded service), the amending Rule would apply. That is, the classification of services as either negotiated transmission services or unregulated transmission services, which is given effect through the amending Rule, would apply to the provision of those new or altered services.

For example, if the new or altered service involved an identified user shared asset that met the contestability criteria set out in the amending Rule, then certain services for that asset would be contestable, non-regulated transmission services. Services that are provided as negotiated transmission services under the amending Rule would be subject to the revised process and principles for the provision of negotiated transmission services set out under the amending Rule.

The grandfathering arrangements under clause 11.6.11 end at the start of the relevant TNSP's next regulatory control period if the connection agreement has been amended at the request of the transmission network user for the purposes of altering a grandfathered connection service. If the negotiation of the request does not lead to a change to the connection service, then clause 11.6.11 continues to apply.

Therefore, the Commission has concluded that the operation of clause 11.6.11 is separate to the changes resulting from this rule change request and accordingly, amendments to clause 11.6.11 are not required to accommodate or reflect the amending Rule. The proposed savings and transitional Rule makes it clear that the application of clause 11.6.11 of the Rules is unchanged by the draft Rule in relation to connection services provided under a connection agreement entered into before the commencement date of the amending Rule (i.e. there is no overriding of the grandfathering arrangements under clause 11.6.11).¹⁸

Connection enquiries underway

If a party has made an enquiry under clause 5.3.2 of the Rules for a particular connection (a 'connection enquiry') before the commencement date, the 'old' Rules would apply to the negotiation and provision of that connection. That is, the connection process and the negotiation of a connection agreement with the TNSP for

¹⁸ See clause 11.xx.4(c) of the proposed savings and transitional Rule.

that particular connection would be subject to the versions of Chapters 5 and 6A of the Rules that are in force immediately prior to the commencement date.¹⁹

The proposed savings and transitional Rule specifies that a connection applicant who has made an enquiry under clause 5.3.2 of the Rules for a particular connection before the commencement date is not prevented from withdrawing that connection enquiry and making a new connection enquiry for that connection on or after the commencement date.²⁰ If a connection applicant chooses to do this, the new Rules would apply to that connection process and negotiation. Submitting a new connection enquiry may be beneficial to the connecting party because, under the amending Rule, it would have increased bargaining power when negotiating with the TNSP. This is because the amending Rule strengthens the principles and process by which connecting parties negotiate for the provision of negotiated transmission services, and allows for contestability in the provision of some services for a connection, provided that certain criteria are met.²¹ However, the connecting party would need to weigh up the costs and disadvantages of withdrawing its connection enquiry against the benefits of being able to access the arrangements under the new Rules. The connecting party would also need to consider the effect of any contractual or other arrangements that were already in place in relation to that particular connection enquiry.

2.4.2 Existing identified user shared assets

There are a number of existing assets that form part of the transmission network that would meet the definition of an identified user shared asset under the draft Rule, or that are currently being constructed, i.e. those connection assets that were provided, or are being provided, as negotiated transmission services by the TNSP under the current transmission services framework (post-2006). Neither the draft Rule nor the proposed savings and transitional Rule address these assets. Therefore, the existing regulatory treatment of those assets and the contractual arrangements under which they were put in place are not affected.

The Commission considers that this approach is consistent with the approach taken at the time of the final determination on the Economic Regulation of Transmission Services rule change in 2006, which introduced the current transmission service arrangements, and grandfathered those connection assets that were provided as prescribed transmission services under clause 11.6.11 of the Rules.²²

2.4.3 Existing dedicated connection assets

There are a number of existing assets that would meet the definition of a dedicated connection asset under the amending Rule, or that are currently being constructed or contracted to be constructed before the commencement date. As discussed in appendix

¹⁹ See clause 11.xx.5(a) of the proposed savings and transitional Rule.

²⁰ See clause 11.xx.5(b) of the proposed savings and transitional Rule.

²¹ See section 4.2.1 of the draft determination.

²² See <http://www.aemc.gov.au/Rule-Changes/Economic-Regulation-of-Transmission-Services#>

D of the draft determination, stakeholders have different interpretations of the regulatory treatment of these assets under the current Rules.²³

As also discussed in that appendix, the Commission considers that it should be put beyond doubt that parties who own, operate and/or control dedicated connection assets are subject to the National Electricity Law (NEL) and the Rules in respect of those assets because they form part of the 'whole' transmission system.²⁴ The draft Rule makes it clear that, while new dedicated connection assets do not form part of the shared transmission network because they can be electrically isolated from it, they do form part of the 'whole' transmission system.

Given that the Commission wishes to put beyond doubt that dedicated connection assets are subject to the NEL and the Rules, it is important to have visibility of where and what these existing dedicated connection assets are, and which party is subject to the NEL and Rules in respect of those assets. The draft Rule makes it clear that any party who owns, operates or controls a dedicated connection asset should be registered, or exempt from registration, with respect to that asset. However, the Commission recognises that existing dedicated connection assets, or those under development, were established under the existing regulatory arrangements, under which there is potentially scope for these assets to be treated as forming part of a connecting party's facility, part of the connecting TNSP's transmission network or something separate, and therefore, it is potentially unclear who is subject to the NEL and the Rules in relation to those assets.

The proposed savings and transitional Rule therefore sets out a means by which parties who own, operate or control existing dedicated connection assets can have that asset 'grandfathered'. To give effect to this, the proposed savings and transitional Rule defines the terms 'Existing DCA' and an 'Existing DCA Owner',²⁵ as below.

Existing DCA means a *dedicated connection asset* which, before the commencement date:

- exists; or
- is contracted to be constructed under an Existing Connection Agreement; or
- a *Transmission Network Service Provider* has agreed to *connect* to a *transmission network* under an Existing Connection Agreement.

Existing DCA Owner means an owner, operator or controller of an Existing DCA.

23 Some parties consider these to be covered by the Rules term, 'extension'; some consider them to be covered by the Rules term, 'connection assets'; some consider them to form part of the connecting party's facilities; and others do not consider that these assets are defined or covered by the Rules at all. Therefore, there are a range of existing owners of such assets, ranging from the primary TNSP, to a network service provider who has been granted an exemption by the AER, to a generator or load.

24 Under the draft Rule, a dedicated connection asset is defined as a transmission system for the purposes of registration.

25 See clause 11.xx.1 of the proposed savings and transitional Rule.

The proposed savings and transitional Rule requires an Existing DCA Owner that is not already registered or exempt with respect to that asset to, by the commencement date, either:

- register as a network service provider for the Existing DCA; or
- seek an exemption from the requirement to register.

If an Existing DCA Owner is already registered (or exempt) with respect to that asset, then they will be required, on or before a date that is not less than two months prior to the commencement date, to notify the AER of:

- the identity of each owner, controller or operator of the Existing DCA;
- the category of Registered Participant for which the owner, controller or operator of the Existing DCA is registered (or for which it has an exemption) for the Existing DCA;
- whether the Existing DCA would be classified as a large dedicated connection asset or small dedicated connection asset if the Existing DCA Owner was to register as a Network Service Provider for that asset; and
- the location and route of the Existing DCA.²⁶

The proposed savings and transitional Rule requires the AER to, by the commencement date, establish and publish a register of Existing DCA Owners that have notified the AER under this clause.²⁷ The recording of Existing DCAs in the register will provide visibility to industry and market institutions of where these assets are, and who is registered (or exempt) with respect to those assets, and therefore subject to obligations under the NEL and Rules, or the conditions of the exemption granted by the AER.

If an Existing DCA Owner is recorded by the AER in the register, the Existing DCA Owner:

- if recorded in a registration category other than a network service provider, or recorded as having an exemption (as applicable), for the Existing DCA, is not required to register as a network service provider for that Existing DCA;
- if recorded as a network service provider for the Existing DCA, is not required to classify that Existing DCA as a large dedicated connection asset or small dedicated connection asset under the amending Rule;
- is not taken to be a dedicated connection asset service provider in respect of that Existing DCA;

²⁶ See clause 11.xx.2(a) of the proposed savings and transitional Rule.

²⁷ See clause 11.xx.2(b) of the proposed savings and transitional Rule.

- will continue to be registered (or exempted) in the category of Registered Participant for the Existing DCA that applied immediately before the commencement date and recorded in the register by the AER and must, in relation to the Existing DCA, comply with all the obligations under the Rules that apply from time to time to that category of Registered Participant, or the conditions of the exemption (as applicable).²⁸

2.5 Preservation of the existing Rules for adoptive jurisdictions

As set out in chapter 6 of the draft determination on this rule change request, the Commission is of the view that the scope of the rule change request does not include consideration of applying the connections aspects of the draft Rule in any jurisdiction where AEMO is authorised to exercise declared network functions i.e. Victoria.

To exclude the operation of the connections aspects of the draft Rule in Victoria:

- the amending Rule provides that the amendments to Chapters 2, 5, 8 and 10 under the amending Rule do not apply in relation to connection and access to a 'declared transmission system', i.e. the amending Rule sets out that the new provisions do not apply in respect of the declared transmission system and thus preserves the operation of those existing provisions as they relate to the declared transmission system;
- the proposed savings and transitional Rule preserves the operation of certain parts of the version of the Rules that applies immediately before the commencement date in Victoria, including Chapter 6,²⁹ Chapter 6A, and Rule 5.4A and its associated definitions, and sets out that any amendments to these parts made by the amending Rule are of no effect.³⁰ This means that amendments will need to be made to the savings and transitional Rule itself in order to apply any subsequent changes to these preserved chapters, rules and clauses in declared network jurisdictions after the commencement date.

²⁸ See clause 11.xx.2(c) of the proposed savings and transitional Rule.

²⁹ Note that the draft determination did not specify that Chapter 6 of the Rules would be preserved. The amending Rule reflects amendments to Chapter 6 of the NER to give effect to the deletion of Rule 5.4A. Because Rule 5.4A is to be retained in Victoria, Chapter 6 of the Rules needs to be preserved as well.

³⁰ See clause 11.xx.7(a) of the proposed savings and transitional Rule.

3 Planning

This section sets out the Commission's proposed approach to the implementation of the planning aspects of the draft Rule, including the interim steps that would need to be undertaken by industry and market institutions to support implementation. It largely reflects what is set out in section 7.4 of the draft determination.³¹ However, if there is an inconsistency between what was presented in that section and what is in this consultation paper, the information in this paper takes precedence.

3.1 Overview of draft Rule

The draft Rule makes a number of enhancements to the existing transmission planning frameworks in the Rules. Further detail on these changes, and the rationale for the Commission's draft decision, can be found in chapter 7 of the draft determination. In summary, the draft Rule requires:

- TNSPs to include certain additional information in their Annual Planning Reports, such as key changes since the last Annual Planning Report, the forecasting methodology used for forecast loads and more detailed information regarding network constraints;
- the AER to develop a guideline to support consistency across Annual Planning Reports; and
- TNSPs to undertake joint planning with other TNSPs where there is the potential for investments in other transmission networks to deliver market and reliability benefits in their own network.

3.2 Commencement date and implementation requirements

The planning aspects of the rule change will commence when the amending Rule is made. The purpose of commencing these aspects of the amending Rule on the date that it is made is to allow the new requirements to be implemented as soon as possible. However, as is explained below, compliance with the amending Rule is not required until after that date.

The proposed savings and transitional Rule requires the AER to develop and publish a guideline on the consistency of transmission Annual Planning Reports by 31 December 2017.³² The Commission understands that the AER is comfortable with this timing.

The proposed savings and transitional Rule provides that a TNSP is not required to comply with the amending Rule for its Annual Planning Report if the due date for

³¹ See <http://www.aemc.gov.au/getattachment/ea4a611d-a7bb-466e-82e0-80337450b53a/Draft-determination.aspx>

³² See clause 11.xx.6(a) of the proposed savings and transitional Rule.

publication of its Annual Planning Report is within six months of the date the guideline is published by the AER.³³

That is, if the AER's guideline is published less than six months prior to the date the TNSP is required to publish its Annual Planning Report, then the amending Rule (i.e. the consistency obligations in the guideline) will not apply until the TNSP's next Annual Planning Report.

The Commission considers that this provides sufficient time for:

- the AER to develop the guideline on the consistency of Annual Planning Reports; and
- TNSPs to amend business processes as necessary, and to incorporate the new requirements into their Annual Planning Reports.

We note that the Commission is also considering the AER's Replacement Expenditure Planning Arrangements rule change request.³⁴ The Commission is considering any interactions between the implementation of the requirement for the AER to prepare a guideline on the consistency of Annual Planning Reports under the amending Rule and the proposals put forward in the AER's rule change request.

³³ See clause 11.xx.6(b) of the proposed savings and transitional Rule.

³⁴ See <http://www.aemc.gov.au/Rule-Changes/Replacement-Expenditure-Planning-Arrangements>

A Proposed Savings and Transitional Amendments to implement the Draft National Electricity Amendment (Transmission Connections and Planning Arrangements) Rule

[1] Chapter 11 New Part ZZ[X]

In Chapter 11, after Part ZZ[W], insert:

Part ZZ[X] Transmission Connection and Planning Arrangements

11.xx Rules consequential on the making of the National Electricity Amendment (Transmission Connection and Planning Arrangements) Rule 2017

11.xx.1 Definitions

(a) In this rule 11.xx:

Amending Rule means the *National Electricity Amendment (Transmission Connections and Planning Arrangements) Rule 2017*.

commencement date means the date of commencement of Schedules 1 to [x] of the Amending Rule.

[Note: the commencement date will be a date specified in the final Rule and will be when the connection aspects of the final Rule commence. It is proposed that the commencement date will be not less than one year after the date the final Rule is made. The transitional rules and the planning aspects of the final Rule will commence on the date that the final Rule is made.]

Existing Connection Agreement means a *connection agreement* entered into before the commencement date other than in relation to a *declared transmission system*.

Existing DCA means a *dedicated connection asset* which, before the commencement date:

- (a) exists; or
- (b) is contracted to be constructed under an Existing Connection Agreement; or
- (c) a *Transmission Network Service Provider* has agreed to *connect* to a *transmission network* under an Existing Connection Agreement.

Existing DCA Owner means an owner, operator or controller of an Existing DCA.

former Chapter 5 means Chapter 5 of the *Rules* as in force immediately prior to the commencement date.

former Chapter 6 means Chapter 6 of the *Rules* as in force immediately prior to the commencement date.

former Chapter 6A means Chapter 6A of the *Rules* as in force immediately prior to the commencement date.

New Chapter 10 means Chapter 10 of the *Rules* as it will be in force immediately after the commencement date.

new clause 5.3AA(e)(2) means clause 5.3AA(e)(2) of the *Rules* as in force immediately after the commencement date (being the same as clause 5.5(e)(2) of the *Rules* immediately prior to the commencement date).

old rule 5.4A means rule 5.4A of the *Rules* (and all definitions in, and related definitions and provisions of, the *Rules* amended by the Amending Rule) as in force immediately prior to the commencement date.

old clause 5.3.6(i) means clause 5.3.6(i) as in force immediately prior to the commencement date.

- (b) Italicised terms used in this rule 11.xx have the same meaning as in new Chapter 10.

11.xx.2 Grandfathering of existing dedicated connection assets

- (a) By the date which is [two months] prior to the commencement date, an Existing DCA Owner who is already registered or is exempt from registration (as applicable) under chapter 2 of the *Rules* for its Existing DCA must notify the *AER* of the following information:
- (1) the identity of each owner, controller or operator of the Existing DCA;
 - (2) the category of *Registered Participant* for which the owner, controller or operator of the Existing DCA is registered (or for which it has an exemption) for the Existing DCA;
 - (3) whether the Existing DCA would be classified as a *large dedicated connection asset* or *small dedicated connection asset* if the Existing DCA Owner was to register as a *Network Service Provider* for that asset; and
 - (4) the location and route of the Existing DCA.
- (b) By the commencement date, the *AER* must establish and publish a register of Existing DCA Owners who are already registered or exempt (as the case may be) for the Existing DCA and have notified

their Existing DCAs under paragraph (b). The register must include the information in paragraph (a).

- (c) If an Existing DCA Owner is recorded in the register by the *AER* under paragraph (b) that Existing DCA Owner:
- (1) if recorded in a registration category other than *Network Service Provider* or as having an exemption (as applicable) for the Existing DCA, is not required to register as a *Network Service Provider* for that Existing DCA under clause 2.5.1;
 - (2) if recorded in the registration category of *Network Service Provider* for the Existing DCA, is not required to classify that Existing DCA as a *large dedicated connection asset* or *small dedicated connection asset* under clause 2.5.1A;
 - (3) is not taken to be a *Dedicated Connection Asset Service Provider* in respect of that Existing DCA; and
 - (4) will continue to be registered in the category of *Registered Participant* or be exempted (as applicable) for the Existing DCA as applied immediately before the commencement date and recorded in the register by the *AER* and must, in relation to the Existing DCA, comply with all the obligations under the *Rules* that apply from time to time to that category of *Registered Participant* or the conditions of the exemption (as applicable).
- (d) If an Existing DCA Owner is not recorded in the register by the *AER* under paragraph (b), that Existing DCA Owner must, by the commencement date, register or apply for an exemption from registration as a *Network Service Provider* under clause 2.5.1 of the *Rules* for its Existing DCA.

11.xx.3 Preparatory steps for registration changes under the Amending Rule

- (a) By the date which is [four months] prior to the commencement date, the *AER* must amend and *publish* the guidelines developed under clause 2.5.1(d) to take account of the Amending Rule.
- (b) If prior to the date specified in paragraph (a) and for the purposes of developing changes to the guidelines referred to in paragraph (a) in anticipation of the Amending Rule, the *AER* undertook a consultation or steps equivalent to that as required in the *Rules consultation procedures*, then that consultation or steps is taken to satisfy the equivalent consultation or step under the *Rules consultation procedures*.
- (c) By the date which is [three months] prior to the commencement date, *AEMO* must develop an application form for registration of *Network Service Providers* that takes account of the Amending Rule.

11.xx.4 Existing Connection Agreements

- (a) Subject to paragraph (b), the Amending Rule is neither intended to have, nor is it to be read or construed as having, the effect of:
 - (1) altering any of the terms of an Existing Connection Agreement;
 - (2) altering the contractual rights or obligations of any of the parties under an Existing Connection Agreement as between those parties; or
 - (3) relieving the parties under any such Existing Connection Agreement of their contractual obligations under such an agreement.
- (b) If a *Transmission Network User* under an Existing Connection Agreement requests an amendment to that Existing Connection Agreement after the commencement date for the purposes of altering a *connection service* provided under that agreement, then the *Rules* as amended by the Amending Rule apply to that request.
- (c) The Amending Rule is neither intended to have, nor is it to be read or construed as having, the effect of changing the application of clause 11.6.11 (if applicable) in relation to *connection services* provided under an Existing Connection Agreement.

11.xx.5 Connection process

- (a) If a *connection* enquiry was made to a *Transmission Network Service Provider* by a *Connection Applicant* under clause 5.3.2 before the commencement date, the former Chapter 5 and Chapter 6A continue to apply to the *connection* process and negotiation for a *connection agreement* related to that *connection* enquiry.
- (b) Paragraph (a) does not prevent a *Connection Applicant* making a new *connection* enquiry for that *connection* after the commencement date.

11.xx.6 Transmission Annual Planning Report

- (a) The *AER* must develop and publish the first *TAPR Guidelines* required under rule 5.14B by 31 December 2017.
- (b) A *Transmission Network Service Provider* is not required to comply with Schedule [x] of the Amending Rule for a *Transmission Annual Planning Report* if the date by which that report is required to be *published* is within six months of the publication of the *TAPR Guidelines* by the *AER* under paragraph (a).

[Note: the Schedule of the Amending Rule that is referred to in paragraph (b) will be the schedule that contains the planning aspects of the Amending Rule.]

11.xx.7 Preservation for adoptive jurisdictions

- (a) For a *declared transmission system* of an *adoptive jurisdiction*:
- (1) former Chapter 6 continues to apply and the amendments made by the Amending Rule to Chapter 6 are of no effect;
 - (2) former Chapter 6A continues to apply and the amendments made by the Amending Rule to Chapter 6A are of no effect;
 - (3) old rule 5.4A continues to apply and the deletion of rule 5.4A by the Amending Rule is of no effect;
 - (4) old clause 5.3.6(i) continues to apply and the deletion of clause 5.3.6(i) by the Amending Rule is of no effect; and
 - (5) new clause 5.3AA(e)(2) applies as amended below:
 - (i) insert the phrase “*transmission network user access* or” before “*distribution network user access*”; and
 - (ii) insert “*transmission networks* and” before “*distribution networks*”.

[Note: the definition of *transmission system* that is amended in the draft Rule will require further amendment in order to reflect the approach to the transitional rule drafting. The amended definition is set out below.]

transmission system

A *transmission network*, together with the *connection assets* associated with the *transmission network*, which is *connected* to another *transmission* or *distribution system*.

For a *participating jurisdiction* that is not an *adoptive jurisdiction*, a *transmission system* includes:

- (a) a *third party IUSA* that is not the subject of a *network operating agreement*, together with the *connection assets* associated with that *third party IUSA*; and
- (b) for the purposes of Chapter 2, a *third party DCA* which is not a Notified Existing DCA within the meaning of clause 11.xx.1.

Note

An *identified shared user asset* or a *dedicated connection asset* owned, controlled or operated by the *Primary Transmission Network Service Provider* will form part of that provider’s broader *transmission system* rather than constituting a separate *transmission system* requiring separate registration under Chapter 2. A person owning, controlling or operating an asset described in paragraph (a) or (b) is required to be registered under Chapter 2 as a *Transmission Network Service Provider* unless grandfathered under clause 11.xx.2.