



Draft National Electricity Amendment (Contestability of energy services) Rule 2017

under the National Electricity Law to the extent applied by:

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

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

John Pierce
Chairman
Australian Energy Market Commission

Draft National Electricity Amendment (Contestability of energy services) Rule 2017

1 Title of Rule

This Rule is the *Draft National Electricity Amendment (Contestability of energy services) Rule 2017*.

2 Commencement

This Rule commences operation on [COMMENCEMENT_DATE].

3 Amendment of the National Electricity Rules

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

4 Amendment of the National Electricity Rules

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

5 Savings and Transitional Amendments to the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 3.

Schedule 1 Amendment to the National Electricity Rules

(Clause 3)

[1] Clause 6.2.1 Classification of distribution services

Omit clause 6.2.1(d) and substitute "[Deleted]".

[2] Clause 6.2.2 Classification of direct control services as standard control services or alternative control services

Omit clause 6.2.2(d) and substitute "[Deleted]".

[3] New Clause 6.2.3A Distribution Service Classification Guidelines

After clause 6.2.3, insert:

6.2.3A Distribution Service Classification Guidelines

- (a) The *AER* must, in accordance with the *distribution consultation procedures*, develop, maintain and *publish* guidelines (the *Distribution Service Classification Guidelines*) that set out the approach the *AER* proposes to take when classifying *distribution services* as:
- (1) *direct control services* or *negotiated distribution services* under clause 6.2.1(a); and
 - (2) *standard control services* or *alternative control services* under clause 6.2.2(a).
- (b) The *Distribution Service Classification Guidelines* must set out an explanation of the *AER*'s proposed approach (including worked examples) to:
- (1) determining whether to classify a *distribution service*;
 - (2) applying the factors set out in:
 - (i) clause 6.2.1(c), when classifying *distribution services* as *direct control services* or *negotiated distribution services*; and
 - (ii) clause 6.2.2(c), when classifying *direct control services* as *standard control services* or *alternative control services*; and

- (3) distinguishing between *distribution services* (including those that are classified as *direct control services*) and the operating and capital inputs that are used to provide such services.
- (c) Nothing prevents the *AER* from *publishing* the *Distribution Service Classification Guidelines* in the same document as another guideline *published* under this Chapter.

[4] Clause 6.2.8 Guidelines

In clause 6.2.8(a)(1), before "and the *Cost Allocation Guidelines*", insert ", the *Distribution Service Classification Guidelines*, the *Asset Exemption Guidelines*".

[5] Clause 6.2.8 Guidelines

Omit clause 6.2.8(c), and substitute:

- (c) Except as otherwise provided in this Chapter, a guideline is not mandatory (and so does not bind the *AER* or anyone else) but, if the *AER*:
 - (1) makes a distribution determination that is not in accordance with the guideline, the *AER* must state, in its reasons for the distribution determination, the reasons for departing from the guideline;
 - (2) makes a decision in respect of an *asset exemption* under clause 6.4B.1(a)(3) or (4) that is not made in accordance with the *Asset Exemption Guidelines*, the *AER* must state, in its reasons for that decision, the reasons for departing from that guideline; and
 - (3) makes a *framework and approach paper* that is not in accordance with the *Distribution Service Classification Guidelines*, the *AER* must state, in the relevant *framework and approach paper*, the reasons for departing from that guideline.

[6] New Rule 6.4B Asset exemptions

After rule 6.4A, insert:

6.4B Asset exemptions

6.4B.1 Asset exemption decisions and Asset Exemption Guidelines

- (a) The *AER* may, following receipt of an *exemption application* and in accordance with this Chapter, approve:
 - (1) for the purpose of clause 6.5.7(c)(2), the inclusion of *expenditure for a restricted asset* in a *Distribution Network Service Provider's* forecast of required capital expenditure;

- (2) for the purposes of clause 6.6A.1(b1), the inclusion of *expenditure for a restricted asset* in a *Distribution Network Service Provider's proposed contingent capital expenditure* for a *proposed contingent project*;
- (3) for the purpose of clause 6.6.1(d2), the inclusion of *expenditure for a restricted asset* in a *Distribution Network Service Provider's positive pass through amount* for a *positive change event*; and
- (4) for the purposes of clause 6.6.5(f1), the inclusion of *expenditure for a restricted asset* in the *Distribution Network Service Provider's proposed capital expenditure*,

(each being an *asset exemption*).

- (b) In considering whether to approve an *asset exemption*, the AER must have regard to:
 - (1) the likely impacts on the development of competition in markets for energy related services if the *Distribution Network Service Provider* invests in the assets the subject of the *asset exemption*; and
 - (2) the *Asset Exemption Guideline*.
- (c) The AER must, in accordance with the *distribution consultation procedures*, develop, maintain and *publish* guidelines (the *Asset Exemption Guidelines*) that set out:
 - (1) the approach the AER proposes to take when determining whether to grant an *asset exemption*; and
 - (2) the information the AER requires from a *Distribution Network Service Provider* (in addition to that set out in clause 6.4B.2(c)(1) to (4)) in order to assess a request for an *asset exemption*.
- (d) Nothing prevents the AER from *publishing* the *Asset Exemption Guidelines* in the same document as another guideline *published* under this Chapter.

6.4B.2 Exemption applications

- (a) A *Distribution Network Service Provider* may request an *asset exemption* from the AER in respect of a specific asset or class of asset by submitting a written request in accordance with this Chapter (an *exemption application*).
- (b) A *Distribution Network Service Provider* must have regard to the *Asset Exemption Guidelines* when preparing and submitting an *exemption application*.

- (c) An *exemption application* must include:
- (1) details of the type of *asset exemption* which is being sought by the *Distribution Network Service Provider* under clause 6.4B.1(a);
 - (2) a description of the asset or class of asset in respect of which the proposed *asset exemption* would apply, including the location and anticipated or known cost of the proposed asset or class of asset;
 - (3) details of the *standard control services* that would be provided by the asset or class of asset in respect of which the proposed *asset exemption* would apply;
 - (4) the likely impacts on the development of competition in markets for energy related services if the *Distribution Network Service Provider* invests in the assets the subject of the *asset exemption*; and
 - (5) any additional information that must be submitted by a *Distribution Network Service Provider* under the *Asset Exemption Guidelines*.

[7] Clause 6.5.7 Forecast capital expenditure

In clause 6.5.7(b)(4), omit "." and substitute "; and".

[8] Clause 6.5.7 Forecast capital expenditure

After clause 6.5.7(b)(4), insert:

- (5) not include *expenditure for a restricted asset*, unless:
 - (i) to the extent that any such expenditure includes an amount of unspent capital expenditure for a *contingent project* in accordance with paragraph (g), an *asset exemption* has been granted by the *AER* under clause 6.4B.1(a)(2) in respect of that asset or that class of asset for the *contingent project*;
 - (ii) to the extent that any such expenditure relates to a *positive pass through amount*, an *asset exemption* has been granted by the *AER* under clause 6.4B.1(a)(3) in respect of that asset or that class of asset for that *positive pass through amount*; or
 - (iii) otherwise, the *Distribution Network Service Provider* has submitted an *exemption application* with the *regulatory proposal* requesting an *asset exemption* under clause 6.4B.1(a)(1) for the *regulatory control period* in respect of that asset or class of asset.

[9] Clause 6.5.7 Forecast capital expenditure

Omit clause 6.5.7(c), and substitute:

- (c) The *AER* must:
 - (1) subject to paragraph (2), accept the forecast of required capital expenditure of a *Distribution Network Service Provider* that is included in a *building block proposal* if the *AER* is satisfied that the total of the forecast capital expenditure for the *regulatory control period* reasonably reflects each of the following (the *capital expenditure criteria*):
 - (i) the efficient costs of achieving the *capital expenditure objectives*;
 - (ii) the costs that a prudent operator would require to achieve the *capital expenditure objectives*; and
 - (iii) a realistic expectation of the demand forecast and cost inputs required to achieve the *capital expenditure objectives*.
 - (2) not accept the forecast of required capital expenditure of a *Distribution Network Service Provider* that is included in a *building block proposal* if that forecast includes *expenditure for a restricted asset*, unless:
 - (i) to the extent that any such expenditure includes an amount of unspent capital expenditure for a *contingent project* in accordance with paragraph (g), an *asset exemption* has been granted by the *AER* under clause 6.4B.1(a)(2) in respect of that asset or that class of asset for the *contingent project*;
 - (ii) to the extent that any such expenditure relates to a *positive pass through amount*, an *asset exemption* has been granted by the *AER* under clause 6.4B.1(a)(3) in respect of that asset or that class of asset for that *positive pass through amount*; or
 - (iii) otherwise:
 - (A) that *Distribution Network Service Provider* has requested an *asset exemption* under paragraph (b)(5) in respect of that asset or that class of asset; and
 - (B) the *AER* has granted that *asset exemption*.

[10] Clause 6.5.7 Forecast capital expenditure

In clause 6.5.7(g), at the beginning of the clause, omit "A" and substitute "Subject to paragraphs (ga) and (j), a".

[11] Clause 6.5.7 Forecast capital expenditure

After clause 6.5.7(g), insert:

- (ga) For the purposes of calculating any unspent capital expenditure in accordance with paragraph (g), the total or estimate of capital expenditure referred to in subparagraph (g)(2) must not include *expenditure for a restricted asset*, unless:
 - (1) the *Distribution Network Service Provider* has submitted an *exemption application* under clause 6.6A.1(a1) for the previous *regulatory control period*, which requested an *asset exemption* under clause 6.4B.1(a)(2) in respect of that asset or class of asset for the *contingent project*; and
 - (2) the *AER* has granted that *asset exemption*.

[12] Clause 6.6.1 Cost pass through

After clause 6.6.1(c), insert:

- (c1) The *positive pass through amount* proposed by the *Distribution Network Service Provider* under subparagraph (c)(4) must not, in whole or in part, be in respect of *expenditure for a restricted asset*, unless the *Distribution Network Service Provider* has submitted an *exemption application* with the statement under paragraph (a), which requests an *asset exemption* under clause 6.4B.1(a)(3) in respect of that asset or class of asset for the *positive pass through amount*.

[13] Clause 6.6.1 Cost pass through

Omit clause 6.6.1(d), and substitute:

- (d) If the *AER* determines that a *positive change event* has occurred in respect of a statement under paragraph (c), the *AER* must:
 - (1) determine:
 - (i) the *approved pass through amount*; and
 - (ii) the amount of that *approved pass through amount* that should be passed through to *Distribution Network Users* in the *regulatory year* in which, and each *regulatory year* after that in which, the *positive change event* occurred,

taking into account the matters referred to in paragraph (j);
and

(2) determine whether or not to grant the *asset exemption* requested under paragraph (c1).

(d1) The *AER* must *publish*:

(1) the reasons for its determination under subparagraph (d)(2);
and

(2) any content required under clause 6.2.8(c)(2),

at the same time as making its determination under subparagraph (d)(1).

(d2) The *AER* must not determine an *approved pass through amount* that is, in whole or in part, in respect of *expenditure for a restricted asset*, unless:

(1) the *Distribution Network Service Provider* has requested an *asset exemption* under paragraph (c1) in respect of that asset or that class of asset for the *positive pass through amount*; and

(2) the *AER* has granted that *asset exemption* under subparagraph (d)(2).

[14] Clause 6.6.1 Cost pass through

In clause 6.6.1(e)(1), omit "and".

[15] Clause 6.6.1 Cost pass through

In clause 6.6.1(e)(2), at the end of the clause, omit "." and substitute "; and".

[16] Clause 6.6.1 Cost pass through

After clause 6.6.1(e)(2), insert:

(3) the *asset exemption* requested under paragraph (c1) is granted.

[17] Clause 6.6.5 Reopening of distribution determination for capital expenditure

After clause 6.6.5(b), insert:

(b1) The capital expenditure that the *Distribution Network Service Provider* proposes to undertake for the purposes of subparagraph (a)(3) must not include *expenditure for a restricted asset*, unless that *Distribution Network Service Provider* has submitted an *exemption application* with the application referred to in paragraph (a), which

requests an *asset exemption* under clause 6.4B.1(a)(4) for the *regulatory control period* in respect of that asset or class of asset.

[18] Clause 6.6.5 Reopening of distribution determination for capital expenditure

In clause 6.6.5(c), after "paragraphs (a) and (b)" insert "and an *exemption application* (if any) made in accordance with paragraph (b1),".

[19] Clause 6.6.5 Reopening of distribution determination for capital expenditure

In clause 6.6.5(c)(2), after "make its decision on the application" insert "and the *exemption application*".

[20] Clause 6.6.5 Reopening of distribution determination for capital expenditure

After clause 6.6.5(c), insert:

(c1) The *AER* must *publish*:

- (1) the reasons for its decision on the *exemption application* under subparagraph (c)(2); and
- (2) any content required under clause 6.2.8(c)(2),

at the same time as making its decision on the application made under paragraph (a).

[21] Clause 6.6.5 Reopening of distribution determination for capital expenditure

After clause 6.6.5(f), insert:

(f1) The *AER* must not include an adjustment for additional expenditure under subparagraph (f)(1) that includes *expenditure for a restricted asset*, unless:

- (1) the *Distribution Network Service Provider* has requested an *asset exemption* under paragraph (b1) for the *regulatory control period* in respect of that asset or that class of asset; and
- (2) the *AER* has granted that *asset exemption* under paragraph (c).

[22] Clause 6.6A.1 Acceptance of a contingent project in a distribution determination

In clause 6.6A.1(a), at the beginning of the clause, omit "A", and substitute "Subject to paragraph (a1), a".

[23] Clause 6.6A.1 Acceptance of a contingent project in a distribution determination

After clause 6.6A.1(a), insert:

- (a1) *Proposed contingent capital expenditure* that is included in a *regulatory proposal* of a *Distribution Network Service Provider* must not include *expenditure for a restricted asset*, unless that *Distribution Network Service Provider* has submitted an *exemption application* with the *regulatory proposal*, which requests an *asset exemption* under clause 6.4B.1(a)(2) in respect of that asset or class of asset for the *contingent project*.

[24] Clause 6.6A.1 Acceptance of a contingent project in a distribution determination

In clause 6.6A.1(b), at the beginning of the clause, omit "The" and substitute "Subject to paragraph (b1), the".

[25] Clause 6.6A.1 Acceptance of a contingent project in a distribution determination

After clause 6.6A.1(b), insert:

- (b1) The *AER* must not determine that a *proposed contingent project* is a *contingent project* if the *proposed contingent capital expenditure* for that *proposed contingent project* includes *expenditure for a restricted asset*, unless:
- (1) the relevant *Distribution Network Service Provider* has requested an *asset exemption* under paragraph (a1) in respect of that asset or that class of asset; and
 - (2) the *AER* has granted that *asset exemption*.

[26] Clause 6.6A.2 Amendment of distribution determination for contingent project

In clause 6.6A.2(b), at the beginning of the clause, omit "An" and substitute "Subject to paragraph (b1), an".

[27] Clause 6.6A.2 Amendment of distribution determination for contingent project

After clause 6.6A.2(b), insert:

- (b1) The forecast capital expenditure referred to in subparagraph (b)(3) must not include *expenditure for a restricted asset*, unless:

- (1) the relevant *Distribution Network Service Provider* has requested an *asset exemption* under clause 6.6A.1(a) for that asset or class of asset in respect of the *contingent project*; and
- (2) the *AER* has granted that *asset exemption*.

[28] Clause 6.6A.2 Amendment of distribution determination for contingent project

In clause 6.6A.2(e), at the beginning of the clause, omit "If", and substitute "Subject to paragraph (e1), if".

[29] Clause 6.6A.2 Amendment of distribution determination for contingent project

After clause 6.6A.2(e), insert:

- (e1) The forecast capital expenditure referred to in subparagraph (e)(1) must not include *expenditure for a restricted asset*, unless:
 - (1) the relevant *Distribution Network Service Provider* requested an *asset exemption* under clause 6.6A.1(a) for that asset or class of asset in respect of the *contingent project*; and
 - (2) the *AER* granted that *asset exemption*.

[30] Clause 6.6A.2 Amendment of distribution determination for contingent project

In clause 6.6A.2(f)(1), at the end of the clause, omit ";" and substitute "and complies with paragraph (b1);".

[31] Clause 6.8.1 AER's framework and approach paper

In clause 6.8.1(b)(2)(vii), omit "and".

[32] Clause 6.8.1 AER's framework and approach paper

In clause 6.8.1(b)(2)(viii), omit "and".

[33] Clause 6.8.1 AER's framework and approach paper

In clause 6.8.1(b)(2)(ix), omit "." and substitute "; and".

[34] Clause 6.8.1 AER's framework and approach paper

After clause 6.8.1(b)(2), insert:

- (3) any content required under clause 6.2.8(c)(3).

[35] Clause 6.8.2 Submission of regulatory proposal and tariff structure statement

Omit heading for clause 6.8.2, and substitute:

6.8.2 Submission of regulatory proposal, tariff structure statement and exemption application

[36] Clause 6.8.2 Submission of regulatory proposal, tariff structure statement and exemption application

After clause 6.8.2(a), insert:

- (a1) A *Distribution Network Service Provider* must submit to the AER any *exemption application* for an *asset exemption* under clause 6.4B.1(a)(1) or 6.4B.1(a)(2) for the *regulatory control period* at the same time as submitting the relevant *regulatory proposal* under paragraph (a).

[37] Clause 6.8.2 Submission of regulatory proposal, tariff structure statement and exemption application

Omit clause 6.8.2(b), and substitute:

- (b) A *regulatory proposal*, a proposed *tariff structure statement* and, if required under paragraph (a1), an *exemption application* must be submitted:
- (1) at least 17 months before the expiry of a distribution determination that applies to the *Distribution Network Service Provider*; or
 - (2) if no distribution determination applies to the *Distribution Network Service Provider*, within 3 months after being required to do so by the AER.

[38] Clause 6.9.1 Preliminary examination

In clause 6.9.1(a)(2), omit "or".

[39] Clause 6.9.1 Preliminary examination

Omit clause 6.9.1(a)(3), and substitute:

- (3) any information accompanying such a *regulatory proposal* or proposed *tariff structure statement*; or

[40] Clause 6.9.1 Preliminary examination

After clause 6.9.1(a)(3), insert:

(4) any *exemption application* submitted with the *regulatory proposal*,

does not comply, in any respect, with a requirement of the Law or the *Rules*, the AER may notify the *Distribution Network Service Provider* that it requires resubmission of the relevant *regulatory proposal*, proposed *tariff structure statement*, *exemption application* or accompanying information.

[41] Clause 6.9.1 Preliminary examination

In clause 6.9.1(b), after "*tariff structure statement*", insert "*, exemption application*".

[42] Clause 6.9.2 Resubmission of proposal

In clause 6.9.2(a), after "proposed *tariff structure statement*", insert "*, exemption application*".

[43] Clause 6.9.2 Resubmission of proposal

In clause 6.9.2(b), after "proposed *tariff structure statement*", insert "*, exemption application*".

[44] Clause 6.9.3 Consultation

In clause 6.9.3(a)(2), omit "and".

[45] Clause 6.9.3 Consultation

Omit clauses 6.9.3(a)(3)-(5) and substitute:

(3) any information accompanying such a *regulatory proposal* or *proposed tariff structure statement*; and

(4) an *exemption application* (if any),

submitted or resubmitted to it (as the case may be) by the *Distribution Network Service Provider* under clause 6.8.2 or 6.9.2, together with:

(5) the AER's proposed *Negotiated Distribution Service Criteria* for the *Distribution Network Service Provider*; and

(6) an invitation for written submissions on the documents and information referred to in sub-paragraphs (1) to (5),

after the AER decides that the *regulatory proposal*, proposed *tariff structure statement*, *exemption application* (if any) and accompanying information comply (or that there is sufficient compliance) with the requirements of the Law and the *Rules*.

[47] Clause 6.9.3 Consultation

In clause 6.9.3(b)(1), omit "(a)(3);" and substitute "(a)(4);".

[48] Clause 6.9.3 Consultation

In clause 6.9.3(b1), omit "(a)(3)," and substitute "(a)(4),".

[49] Clause 6.9.3 Consultation

In clause 6.9.3(c), omit "(a)(4)" and substitute "(a)(5)".

[50] Clause 6.9.3 Consultation

In clause 6.9.3(c), omit "(a)(5) and (b),", and substitute "(a)(6) and (b),".

[51] Clause 6.10.1 Making of draft distribution determination

Omit clause 6.10.1(b)(1), and substitute:

- (1) the information included in or accompanying the *regulatory proposal*, the proposed *tariff structure statement* and the *exemption application*;

[52] Clause 6.10.1 Making of draft distribution determination

In clause 6.10.1(b)(2), omit "6.9.3(a)(4); and" and substitute "6.9.3(a)(5); and".

[53] Clause 6.11.1 Making of distribution determination

Omit clause 6.11.1(b)(1), and substitute:

- (1) the information included in or accompanying the *regulatory proposal*, the proposed *tariff structure statement* and the *exemption application*;

[54] Clause 6.12.1 Constituent decisions

After clause 6.12.1(2), insert:

- (2A) a decision in which the *AER* determines to either grant or reject a request for an *asset exemption* under clause 6.4B.1(a)(1) in respect of a *building block proposal* for the *regulatory control period*;

[55] Clause 6.12.1 Constituent decisions

In clause 6.12.1(3)(ii), omit "acting in accordance with clause 6.5.7(d), ", and substitute "acting in accordance with clause 6.5.7(c)(2) or 6.5.7(d),".

[56] Clause 6.12.1 Constituent decisions

After clause 6.12.1(3), insert:

- (3A) The *AER's* estimate of the total of the *Distribution Network Service Provider's* required capital expenditure referred to in subparagraph (3)(ii) must not include *expenditure for a restricted asset*, unless:
- (i) the relevant *Distribution Network Service Provider* has requested an *asset exemption* under:
 - (A) clause 6.4B.1(a)(2) for the previous *regulatory control period*, to the extent any of the *AER's* estimate relates to the *Distribution Network Service Provider's* forecast for unspent capital expenditure under clause 6.5.7(g) for a *contingent project* that commenced in the previous *regulatory control period* and that unspent capital was in respect of *expenditure for a restricted asset*; or
 - (B) clause 6.4B.1(a)(1) for the *regulatory control period*, to the extent any of the *AER's* estimate otherwise relates to the *Distribution Network Service Provider's* required capital expenditure for the *regulatory control period* and that capital expenditure is in respect of *expenditure for a restricted asset*,
- for that asset or class of asset; and
- (ii) the *AER* has granted the *asset exemption*.

[57] Clause 6.12.1 Constituent decisions

In clause 6.12.1(4A)(iii), omit "and".

[58] Clause 6.12.1 Constituent decisions

In clause 6.12.1(4A)(iv), after "6.6A.1(b);", insert "and".

[59] Clause 6.12.1 Constituent decisions

After clause 6.12.1(4A)(iv), insert:

- (v) to grant or reject a request for an *asset exemption* under clause 6.4B.1(a)(2) in respect of a *proposed contingent project*;

[60] Clause 6.12.3 Extent of AER's discretion in making distribution determinations

Omit clauses 6.12.3(a) and (b), and substitute:

- (a) Subject to this clause and other provisions of this Chapter 6 explicitly negating or limiting the *AER's* discretion, the *AER* has a discretion to accept or approve, or to refuse to accept or approve, any element of:
 - (1) a *regulatory proposal*;
 - (2) proposed *tariff structure statement*; or
 - (3) *exemption application* (if any).
- (b) The classification of *distribution services* must be as set out in the relevant *framework and approach paper* unless the *AER* considers that a material change in circumstances justify departing from the classification as set out in that paper.

[61] Clause 6.12.3 Extent of AER's discretion in making distribution determinations

In clause 6.12.3(c1), omit "unforeseen circumstances" and substitute "a material change in circumstances".

[62] Clause S6.2.1 Establishment of opening regulatory asset base for a regulatory control period

In clause S6.2.1(e)(1), at the beginning of the clause, omit "The" and substitute "Subject to subparagraph (e)(9), the".

[63] Clause S6.2.1 Establishment of opening regulatory asset base for a regulatory control period

In clause S6.2.1(e)(8), at the beginning of the clause, omit "The" and substitute "Subject to subparagraph (e)(9), the".

[64] Clause S6.2.1 Establishment of opening regulatory asset base for a regulatory control period

After clause S6.2.1(e)(8), insert:

- (9) The previous value of the regulatory asset base must not be increased by the value of *expenditure for a restricted asset* incurred during the relevant *regulatory control period*, unless the capital expenditure for that asset or that class of asset for that *regulatory control period* was the subject of an *asset exemption* granted by the *AER* under clause 6.4B.1(a).

Schedule 2 Amendment to the National Electricity Rules

(Clause 5)

[1] Chapter 10 New Definitions

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

asset exemption

Has the meaning given in clause 6.4B.1(a).

Asset Exemption Guidelines

Guidelines developed, maintained and *published* by the AER under clause 6.4B.1(c).

exemption application

Has the meaning given in clause 6.4B.2(a).

Distribution Service Classification Guidelines

Guidelines developed, maintained and *published* by the AER under clause 6.2.3A.

expenditure for a restricted asset

Capital expenditure for a *restricted asset*, excluding capital expenditure for the refurbishment of that asset.

restricted asset

An item of equipment that is electrically connected to a *retail customer's connection point* at a location that is on the same side of that *connection point* as the *metering point*, but excludes:

- (a) such an item of equipment where that *retail customer* is a *Distribution Network Service Provider* and that *Distribution Network Service Provider* is the *Local Network Service Provider* for that *connection point*; or
- (b) a *network device*.

[2] Chapter 10 Substituted Definitions

In Chapter 10, substitute the following definition:

network device

Apparatus or equipment that:

- (a) enables a *Local Network Service Provider* to monitor, operate or control the *network* for the purposes of providing *network services*,

which may include switching devices, measurement equipment and control equipment;

- (b) is located at or adjacent to a *metering installation* at the *connection point* of a *retail customer*; and
- (c) does not have the capability to generate electricity.

**Schedule 3 Savings and Transitional Amendments to the
National Electricity Rules**

(Clause 5)

[Note

The draft rule does not include draft provisions for transitional arrangements. See the draft determination for details of the transitional arrangements.]
