

24 November 2011



positive energy

Mr John Pierce  
Chairman  
Australian Energy Market Commission  
PO Box A2449  
SYDNEY SOUTH NSW 1235

Email: [submissions@aemc.gov.au](mailto:submissions@aemc.gov.au)

Dear Mr Pierce

### **National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2011**

ENERGEX Limited (ENERGEX) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2011 Consultation Paper. ENERGEX provides this response as a Distribution Network Service Provider (DNSP) operating in Queensland.

ENERGEX is supportive of the objectives of the AEMC's Review in establishing a national framework for distribution planning and expansion, and has been an active participant throughout the consultation process. The Rule Change presents a series of interrelated and complex regulatory compliance issues for all DNSPs, and as such, ENERGEX's comments are largely directed at the issue of compliance burden and seeking clarity on interpretation of the Rules. Annexure A outlines ENERGEX's detailed comments.

ENERGEX's review of the Draft Rules suggests that there remain a number of matters to be clarified, particularly with the Regulatory Investment Test for Distribution (RIT-D). Of particular concern are the following issues which are further outlined in the attached Annexure.

- Transitional issues
  - For compliance with the Australian Energy Regulator (AER) Guidelines, ENERGEX is seeking a grace period of not less than six months after the finalisation of the Guidelines to enable businesses to transition to the national framework.
  - Transitioning from the Regulatory Test to RIT-D will require further guidance as to what stage a DNSP will be required to comply with RIT-D in relation to projects that commenced data analysis under the current Regulatory Test.

**Enquiries**

Kevin Kehl

**Telephone**

(07) 3664 4006

**Facsimile**

(07) 3664 9818

**Email**

kevinkehl

@energex.com.au

**Corporate Office**

26 Reddacliff Street

Newstead Qld 4006

GPO Box 1461

Brisbane Qld 4001

Telephone (07) 3664 4000

Facsimile (07) 3025 8301

[www.energex.com.au](http://www.energex.com.au)

**ENERGEX Limited**  
**ABN 40 078 849 055**

- While ENERGEX supports the intention of a Specification Threshold Test (STT) the current drafting of the STT requires clarity as to what projects are envisaged as being able to be streamlined.
- The scope of matters that can be raised in a dispute is very broad with the risk of unnecessarily long and protracted planning timeframes a concern.
- The requirement that the RIT-D cost threshold be applied to the *most expensive* technically and economically feasible option is inconsistent with the intention of having a cost threshold that attempts to address the currently disproportionate regulatory burden on DNSPs.
- The AER's additional audit powers in relation to projects which fall outside the scope of RIT-D appears unnecessary, as the framework in which DNSPs identify and determine these projects is examined by the AER as part of each regulatory determination.
- ENERGEX suggests that the AEMC should consider the need to develop a set of eligibility criteria in the Demand Side Engagement Strategy for non-network providers. This would provide for a more efficient process.

Given the importance of these fundamental issues ENERGEX seeks further discussion with the Commission prior to the finalisation of the Draft Rule Determination.

Should you have any enquiries please contact Louise Dwyer Group Manager Regulatory Affairs on (07) 3664 4047.

Yours sincerely



Kevin Kehl  
Executive General Manager - Strategy and Regulation

*Attach.*

## ANNEXURE A - ENERGEX RESPONSE TO AEMC DRAFT RULE CONSULTATION

Issue	Comments
<b>1. Annual Planning Process</b>	
1.1 What are the implications of allowing each jurisdiction to determine the start date for the annual planning period?	<p>ENERGEX supports the proposal to allow each jurisdiction to determine the start date for the annual planning period as different States have different summer and winter peaks, with ENERGEX being a summer peaking DNSP.</p> <p>ENERGEX notes the following:</p> <ul style="list-style-type: none"> <li>• <i>Summer peaks</i> - A number of DNSPs (including ENERGEX) have a summer peak demand. In ENERGEX's case, this summer peak typically occurs in January / February of a given year and forms the basis of its annual forecasts. The summer period ends on 31 March each year and only then can ENERGEX begin the annual planning and forecasting process. Time and resource constraints under a 30 June publication date would necessitate ENERGEX basing its forecasts on the prior year's data, which would be almost 18 months old by the time of Annual Planning Report (APR) publication. Although ENERGEX currently provides a draft of its Network Management Plan to its jurisdictional regulator by 30 June, material amendment of the underlying data can occur between the provision of the draft and release of the final on 1 September. This timeframe does not adversely impact publication of Powerlink's APR or joint transmission and distribution planning activities; and</li> <li>• <i>Forecast volumes</i> – DNSPs prepare their forecasts on a significantly greater number of data points than TNSPs, necessitating a longer lead-time for forecast and APR preparation. For example, TNSPs will prepare their forecasts at Transmission Node Identifier level - for Powerlink Queensland this is approximately 30 – 40 data points. By comparison, ENERGEX prepares its forecasts at both TNI and substation level – representing approximately 250 additional data points.</li> </ul>
1.2 Is it necessary to include a default start date for the annual planning period to start in the Rules?	No comment.

Issue	Comments
<b>2. Demand Side Engagement Strategy</b>	
2.1 To what extent would potential investors, non-network providers and any other interested parties find the information provided by the proposed Demand Side Engagement Strategy (specifically, the Demand Side Engagement document, the database of non-network proposals/case studies and the Demand Side Engagement Register) useful?	ENERGEX notes that developing, maintaining and promulgating this information may be in part commercial in confidence, rendering the perceived benefit of such a resource redundant.
2.2 To what extent would DNSPs incur additional costs in developing and maintaining the various components of the proposed Demand Side Engagement Strategy?	ENERGEX notes that until the Rules are finalised it may be difficult to quantify the exact cost that DNSPs will incur. However, ENERGEX suggests costs would include additional resources including staff with non-network expertise, information technology, publishing tools and business processes which would need to be established and maintained.
<i>Other Demand Side Engagement Strategy Issues</i>	<p><u>Clarification of non-network providers</u></p> <p>ENERGEX strongly suggests that the AEMC consider the need to develop a set of eligibility criteria for non-network providers responding to consultation. ENERGEX believes that such criteria would ensure that practical solutions are proposed in an efficient manner by non-network providers who have met the eligibility criteria. Furthermore, it must be recognised that distributors generally have governance arrangements and policies in place which must be adhered to in the procurement of all goods and services.</p> <p><u>Clarification of 'make available' under clause 5.6.2AA(l)</u></p> <p>Clause 5.6.2AA(l) requires DNSPs to prepare and make available a Demand Side Engagement document. ENERGEX suggests that the phrase 'make available' should be amended to 'publish'. 'Make available' is not defined under the Rules and is therefore subject to different interpretations.</p> <p><u>Definition of Demand Side Engagement Register</u></p> <p>ENERGEX questions whether it is appropriate for the Chapter 10 definition of 'Demand Side Engagement Register' to refer and rely on clause 5.6.2AA(k). ENERGEX suggests that this is not a true definition of the Register and makes no reference to the Register.</p> <p>ENERGEX suggests that the following amendment to clause 5.6.2AA(p) would provide clarity in relation to when the Demand Side Engagement Register would be required to take effect:</p> <p style="padding-left: 40px;">Each Distribution network Service provider must, <i>from the date on which its first Demand Side Engagement document must be published under paragraph (m)</i>, establish and maintain a register (Demand Side Engagement Register) for those parties wishing to be advised of relevant developments relating to clause 5.6.2AA and clause 5.6.5CA.</p>

Issue	Comments
<b>3. Distribution Annual Planning Report</b>	
3.1 What are the implications (positive and negative) of providing DNSPs with the opportunity to apply for exemptions or variations to the annual reporting requirements?	ENERGEX supports the opportunity to apply for an exemption or variation to the annual planning requirements, particularly if such requirements may result in excessive costs. ENERGEX further suggests that the AER may find it useful if DNSPs provide feedback after the first round of DAPRs are published.
3.2 Do you consider the proposed process for applying for and granting an exemption or variation to the annual reporting requirements is appropriate?	No comment.
3.3 How might a DNSP demonstrate, and the AER determine, whether the costs of preparing certain reporting data would 'manifestly exceed any benefit that may reasonably be obtained from reporting the relevant data in a national regime'? Is there a need to define a set of criteria to assist both parties in this assessment?	ENERGEX does not support the need to define a set of criteria because there is no national consistency amongst DNSPs on their approach to the preparation and analysis of data.
3.4 Are there any alternative solutions which may better balance the benefits of maintaining consistency across the NEM with the costs of preparing and reporting the data under a national framework?	No comment.
3.5 Do DNSPs face sufficient business and regulatory drivers to ensure that they carry out appropriate planning and produce accurate forecasts in their DAPRs?	ENERGEX believes that, through the Chapter 6 regulatory framework and the AER's ongoing monitoring, DNSPs do face sufficient business and regulatory drivers to ensure that they carry out appropriate planning and produce accurate forecasts in their DAPRs.
3.6 Is there a need to consider additional measures to ensure DNSPs deliver robust, high quality DAPRs? If so, what additional measures could be put in place?	No comment.
<i>Other Issues</i>	<p><u>Clause 5.6.2AA(g)(2)(v)</u></p> <p>ENERGEX suggests that further clarification is required in regards to the phrase 'voltage regulation' and what is specifically required to be published in the DAPR.</p>

Issue	Comments
	<p><u>Clause 5.6.2AA(r)</u></p> <p>ENERGEX is concerned that clause 5.6.2AA(r) does not provide a deadline by which a party must request a public forum, but merely a deadline by which the public forum must be held. ENERGETX suggests that this clause be amended as follows:</p> <p style="padding-left: 40px;">‘If a Registered Participant, Connection Applicant, Intending Participant, AEMO, interested party or a party registered on the Distribution Network Service Provider’s Demand Side Engagement Register requests a public forum on the Distribution Annual Planning Report <i>within two months following the publication of that report</i>, then within three months following the publication of that report, the Distribution Network Service Provider must conduct a public forum on that report’.</p> <p><u>Clause 5.6.2AA(g)(4)</u></p> <p>ENERGEX queries the AEMC’s intention with regard to the phrase ‘annual planning review’ and seeks further clarification if by ‘review’ the AEMC is referring to the process of producing the DAPR.</p> <p>ENERGEX has numerous policies impacting asset management and seeks further clarification as to the type of policies the AEMC is referring. ENERGETX notes that there is no consistent national approach to DNSP asset management policies. ENERGETX is concerned that in demonstrating it has undertaken its planning review in line with policies, will result in an excessive volume of information contained within its DAPR therefore reducing its value. Currently, ENERGETX’s Network Management Plan is approximately 1100 pages. ENERGETX estimates the DAPR to be 2000-3000 pages in volume.</p> <p><u>Clause 5.6.2AA(q)</u></p> <p>ENERGEX notes that this clause makes reference to the term ‘jurisdiction specified date’, which is defined under Chapter 10. ENERGETX suggests that this definition is not required to be capitalised under Chapter 10 and should include an undefined reference to ‘local regulation’.</p> <p><u>Schedule 5.8</u></p> <p>ENERGEX notes and suggests the following minor amendments:</p> <ul style="list-style-type: none"> <li>• Substitute ‘met’ for ‘provided’.</li> <li>• It is unclear how ‘forecasts’ of reliability targets can be provided (cl.S5.8(2))(iv)).</li> <li>• Clause S5.8.2(4)(v)(A) should cross refer to paragraph (i) (not (ii)).</li> <li>• Clause S5.8.2(4)(v)(C) should end ‘to defer the forecast system limitation’.</li> <li>• Clause S5.8.2(5)(iii) – delete ‘of the investment’.</li> </ul>

Issue	Comments
	<ul style="list-style-type: none"> <li>• It is unclear why the estimates referred to it in clause S5.8.2(2)(iii)(C), (3)(vii)(A), (4)(i), (7)(ii) (cf cl.5.6.2A(b)(3a)(i), S5.8.2(5)(iii), (6)) should be 'best' estimates.</li> <li>• It is not clear how clause S5.8.2(5)(iv) can apply to a regulatory investment test for distribution which is only in progress.</li> <li>• Clause S5.8.2(10)(v) – delete 'a summary of the'.</li> <li>• Clause S5.8.2(14) and the commencement of each of paragraphs (i) – (iv) need to be harmonised ('identifying', 'summarising', 'providing').</li> </ul> <p><u>Definition of normal cyclic rating</u></p> <p>ENERGEX suggests that the phrase 'giving consideration to' be amended to 'having regard to'.</p> <p><u>Definitions of 'sub-transmission', 'sub-transmission line', and 'zone substation'</u></p> <ul style="list-style-type: none"> <li>• The reference to zone substations in the definitions of 'primary distribution feeder' and 'sub-transmission line' should instead be included in the definition of 'sub-transmission'.</li> </ul>
<b>4. Joint Planning Requirements</b>	
<p>4.1 Do you consider the proposed Rule is appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs and TNSPs?</p>	<p><u>Clause 5.6.2AA(h)</u></p> <p>ENERGEX understands that the draft Rules propose that any expenditure on the transmission network would require the RIT-T to be undertaken (clause 5.6.2AA(H)(ii)). ENERGEX does not support this approach and suggests that a more practical alternative is the requirement to undertake RIT-T only if there is material increase in the transmission capacity. If there is a material increase in the distribution network, RIT-D should be applied. For example, the provision of a new connection to the transmission network to supply a new distribution substation or new distribution line is not a material increase in transmission capacity. However, a new distribution substation or distribution line is a material increase in distribution capacity. In such cases, ENERGEX suggests that only a RIT-D should be undertaken, even though there has been expenditure on the transmission network to provide the connection.</p> <p>ENERGEX believes that clause 5.6.2AA(h) requires greater drafting clarity and suggests the following amendments:</p> <ul style="list-style-type: none"> <li>• clause 5.6.2AA(h) should be amended to read 'Transmission Network Service Provider the transmission network of which is connected to the Distribution Network Service Provider's network';</li> <li>• the provisions regarding joint planning in respect of a declared shared network of an adoptive jurisdiction should be inserted at the end of paragraph (h); and</li> </ul>

Issue	Comments
	<ul style="list-style-type: none"> <li>clause 5.6.2AA(h)(4)(ii) and (iii) also need to be recast to be consistent with the 'must' before the colon in the opening words of clause 5.6.2AA(h).</li> </ul> <p><u>Clause 5.6.2AA(j)</u></p> <p>ENERGEX suggests that this clause is unnecessarily complicated, and to provide greater clarity it should simply require a Distribution Network Service Provider to engage with non-network providers, and consider non-network alternatives, in accordance with the provider's Demand Side Engagement Strategy.</p> <p><u>Clause 5.6.2</u></p> <p>The relationship between the process set out in clause 5.6.2(e) and the joint planning process under clauses 5.6.2AA(g)-(j) is not clear. ENERGEX queries whether clause 5.6.2(e) is still intended to apply to DNSPs given the introduction of this new process.</p> <p><u>Definition of 'joint network investment'</u></p> <p>The reference in the definition of 'joint network investment' to clause 5.6.2AA(t) appears to be an error. ENERGEX suggests that it should instead refer to clause 5.6.2AA(h). Further, as currently defined, an investment which is a joint network investment may also constitute a distribution investment (as it may involve expenditure on assets and services which is undertaken by a DNSP or any other person to address an identified need in respect of a distribution network). ENERGEX proposes that joint network investments be expressly excluded from the definition of 'distribution investment'.</p> <p><u>Clause 5.6.5C and joint planning</u></p> <p>The blanket substitution of 'TNSP or DNSP' for TNSP in clause 5.6.5C does not sit well with joint network investments carried out by DNSPs, eg. it may result in a DNSP being required to carry out transmission investments under clause 5.6.5C(d). Conversely, clause 5.6.5D(b) should extend to DNSPs and joint network investments.</p>
4.2 In what circumstances would DNSPs be required to undertake joint planning with other DNSPs?	ENERGEX notes that joint planning occurs when more than one network is associated with practical and viable options to address emerging limitation(s). There is currently a study underway which has 5 network owners involved. ENERGEX seeks clarification in these types of situations where there is a multitude of network owners, which NSP would be required to undertake RIT-D on behalf of the project.
4.3 Do you consider the proposed Rule is appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs?	See comments above.



Issue	Comments
<b>5. RIT-D</b>	
<p>5.1 Do you consider the proposed RIT-D design parameters are likely to work together to provide an effective decision making framework for DNSPs, consistent with the NEO?</p>	<p>ENERGEX has reviewed the design parameters from 3 perspectives:</p> <ul style="list-style-type: none"> <li>• Our customers, who are currently facing electricity pricing pressures. Our customers should not have to bear undue network planning costs created by ambiguity in the RIT-D;</li> <li>• Our network planning and demand management staff, who co-ordinate and seek to identify the least cost network or non-network option to address a network limitation in accordance with the current Regulatory Test. The more complicated and ambiguous the new assessment framework is, the more effort and cost will be expended to undertake the many required assessments;</li> <li>• The community and environment, which our network must integrate with, and to which ENERGEX is accountable. To the extent that the assessment framework is divorced from these factors, the more difficult it is for ENERGEX to manage broader community expectations. Hence the potential for increased disputes.</li> </ul> <p>The RIT-D requirements are set out across clauses 5.6.5CA (Principles &amp; AER Guidelines), 5.6.5CB (Exemptions), 5.6.5D (Credible Option), 5.6.5E (Review of Cost Thresholds), 5.6.6AB (Procedures) and 5.6.6AC (Disputes). ENERGEX's concerns with the RIT-D design parameters are provided in the same order as these clauses.</p> <p><b>Clause 5.6.5CA (Principles &amp; AER Guidelines)</b></p> <p><u>Clause 5.6.5CA(b)</u></p> <p>Recommendation 13 of the AEMC's Final Report states that the purpose of the RIT-D would be to identify the preferred option which would be the credible option which maximises the present value of net economic benefit to all those who distribute electricity in the market. Clause 5.6.5CA(b) of the Draft Rules states that the purpose of the RIT-D is to identify the credible option that maximises the present value of the net economic benefit to all those who produce, consume and transport electricity. ENERGEX suggests that it is unclear if this departure was intended. If it is intended, the reasons for this policy departure need to be made clear as this goes to the core of the RIT-D framework.</p> <p><u>Clause 5.6.5CA(c)(4)</u></p> <p>Clause 5.6.5CA(c)(4) requires ENERGEX to consider the value of customer reliability (VCR) when assessing market benefits. AEMO is currently consulting on VCR for TNSPs and ENERGEX has asked AEMO to consider the benefits of extending this study to DNSPs, for reasons including the new RIT-D requirements. ENERGEX suggests that the AEMC make a recommendation that AEMO undertake a similar consultation for DNSPs so that the classes of market benefits that could be delivered by the credible option under clause 5.6.5CA(4) could be better determined.</p>

Issue	Comments
	<p>ENERGEX also notes that this paragraph uses the term 'plant', however the definition in Chapter 10 seems to primarily refer to plant relevant to generation. ENERGEX suggests that the AEMC clarify what this term refers to in relation to distribution.</p> <p><u>Clause 5.6.5CA(c)(4)(vi)</u></p> <p>ENERGEX notes that this clause should refer to 'classes of market benefits' not 'classes or market benefits'</p> <p><u>Clause 5.6.5CA(c)(4)(viii)</u></p> <p>This section requires the DNSP to consider 'any other benefits that the DNSP determines to be relevant'. ENERGEX is concerned that it is unclear what other benefits would be included and suggests that if there are none, then the clause should be removed because the uncertainty it creates outweighs any benefit that can be derived from it. If it is retained ENERGEX suggests that the AER's Guideline be required to provide examples of what other market benefits would be deemed relevant.</p> <p><u>Clause 5.6.5CA(c)(6)(iv), (7)</u></p> <p>ENERGEX believes there should be absolute clarity as to how non-financial costs are to be considered in undertaking the RIT-D. The AER should be provided with sufficient policy guidance on how this important issue should be handled. Clarification will assist ENERGEX in dealing with the increasing number of community disputes around the scope of costs, and non-financial costs specifically. ENERGEX suggests clarity could be improved if the AEMC includes a 'for the avoidance of doubt' provision to this affect at the end of paragraph (6), or to propose an amendment to paragraph (9) (which would arguably exclude 'non-financial' costs in any case) to make this clear.</p> <p><u>Clause 5.6.5CA(c)(7)</u></p> <p>Clause 5.6.5CA(c)(7) requires a DNSP to include a quantification of all classes of cost set out in paragraph (6) unless it can provide reasons as to why a particular class of cost 'is not expected to apply'. ENERGEX suggests that this wording is unclear and that it should be replaced with a reference to the 'materiality' of the class of cost, in line with the wording of the corresponding provisions for the RIT-T (clause 5.6.5B(c)(5) and (6)).</p> <p><u>Clause 5.6.5CA(c)(9)</u></p> <p>ENERGEX suggests that the term 'may not' is ambiguous and should be amended to 'will not'. Such an amendment would further prevent unnecessary disputes being raised. ENERGEX further notes that clause 5.6.5CA(c)(9) also allows market benefits or costs to 'Market Customers' to be included in any analysis under the RIT-D, unlike the corresponding provision in relation to the RIT-T (cl.5.6.5B(c)(9)). ENERGEX queries whether there is a reason why this might be the case, and would it be practical for a DNSP to consider these benefits.</p>

Issue	Comments
	<p><u>Clause 5.6.5CA(d)</u></p> <p>ENERGEX suggests that the term ‘may’ is ambiguous and open to interpretation. It could suggest that the DNSP does not have to consider market benefits at all. ENERGEX suggests that the AEMC amend this clause to provide greater clarity.</p> <p><b>Clause 5.6.5CB (Exemptions)</b></p> <p><u>Clause 5.6.5CB(a)(2)</u></p> <p>ENERGEX is concerned with clause 5.6.5CB(a)(2), the requirement that the RIT-D cost threshold be applied to the <i>most expensive</i> technically and economically feasible option. ENERGEX believes this is inconsistent with the intention of having a cost threshold that attempts to address the currently disproportionate regulatory burden on DNSPs. This process appears to require DNSPs to establish:</p> <ul style="list-style-type: none"> <li>• all technically feasible options (of which there will be many);</li> <li>• the costs and benefits of all technically feasible options to determine which are NPV positive (i.e. economically feasible);</li> <li>• of those which are NPV positive, identify the most expensive option (regardless of the benefits accruing to the option);</li> <li>• if this option is less than \$5 million, an exemption from RIT-D is established.</li> </ul> <p>This process seems unnecessarily burdensome, essentially requiring DNSPs to undertake a ‘mini’ regulatory test simply to establish whether a RIT-D is required. ENERGEX also notes that the typical distribution network constraint has many more options to assess than the typical transmission network constraint.</p> <p>The phrase ‘most expensive option’ does not provide a limitation on what will be considered the most expensive option. This was noted in the RIT-T consultation and a ‘technically and economically feasible’ qualification was introduced. ENERGEX submits that it is not appropriate to employ the RIT-T threshold to RIT-D and suggests that the AEMC consider the following change to 5.6.5CB(a)(2):</p> <p style="text-align: center;"><i>‘A Distribution Network Service Provider must apply the regulatory investment test for distribution to a proposed distribution investment except in circumstances where:</i></p> <p style="text-align: center;"><i>...the estimated capital cost of the least expensive technically feasible option that addresses the identified need is less than \$5 million (as varied in accordance with a cost threshold determination)’.</i></p> <p>ENERGEX believes that this approach will better meet the principle of proportionality, as set out in the AEMC’s Final Report.</p> <p><u>Clause 5.6.5CB(a)(6)</u></p> <p>ENERGEX is concerned that it is the intention of clause 5.6.5CB(a)(6) to require RIT-D to be undertaken on new investments where there is an upgrade to the shared network to facilitate a new connection resulting in incidental augmentation. ENERGEX believes that such a requirement would result in undue delay for the connection asset customer and therefore suggests that where there is a new investment in the network associated with customer connections, and where the customer contributes a</p>

Issue	Comments
	<p>significant proportion of the costs, this investment should be exempt from the RIT-D process.</p> <p>ENERGEX also suggests that it is unclear how fault level constraints triggered by connection of non-network solutions are to be treated under RIT-D. For example, are such constraints to be treated as shared network augmentations and subject to RIT-D or should they be attributed to the last non-network provider which exceeded the limits? ENERGEX suggests that if the latter is the AEMC's intention, then the AEMC should clarify what decision mechanism is to be utilised when multiple non-network providers are progressing simultaneously.</p> <p><u>Clause 5.6.5CB(a)(8)</u></p> <p>ENERGEX understands that clause 5.6.5CB(a)(8) refers to status of replacement and refurbishment of existing assets under RIT-D. ENERGEX seeks clarification that clause 5.6.5CB(8) excludes incidental augmentation from the RIT-D process. ENERGEX suggests that clause 5.6.5CB(8) be amended to the following:</p> <p style="text-align: center;"><i>'the proposed distribution investment is related to the refurbishment or replacement expenditure of existing assets and also results in an augmentation to the network...'</i></p> <p>ENERGEX suggests that the AER (as per clause 5.6.5CA(h)) could provide a worked example of the calculation to be used when determining the augmentation component of a replacement/refurbishment project. This would provide DNSPs with greater certainty in relation to these types of investments. Under the current Regulatory Test it is unclear how the AER expects such a calculation to be undertaken.</p> <p>ENERGEX is concerned that the phrase 'as allocated by the DNSP in accordance with recognised Cost Allocations Methods and any applicable AER guidelines' is ambiguous. ENERGEX suggests that this phrase should be amended to reflect the correct wording of clause 6.15.1 'as allocated by the DNSP in accordance with the Cost Allocation Method that has been approved in respect of that provider by the AER'.</p> <p><u>Clause 5.6.5CB(f)</u></p> <p>ENERGEX seeks clarification if the AER review is in relation to a DNSP's Demand Side Engagement Strategy or non-network option under the Specification Threshold Test stage of RIT-D.</p> <p><u>Clause 5.6.5CB(g)</u></p> <p>ENERGEX suggests that it is unclear why the AER would be required to audit a DNSP's consideration of non-network alternatives. In assessing the DNSP's regulatory proposal the AER is required to, amongst other things, assess whether the DNSP has considered non-network alternatives.</p> <p>If the clause is retained, ENERGEX submits that the AEMC or AER clarify what will be considered 'adequate consideration of non-network solutions'. This requirement is open to interpretation which is not appropriate where the requirement is subject to audit.</p>

Issue	Comments
	<p><b>Clause 5.6.5D (Credible Option)</b></p> <p><u>Clause 5.6.5E(a1)</u></p> <p>ENERGEX suggests that minor amendments be made to clause 5.6.5E(a1) as follows:</p> <p style="padding-left: 40px;">Every 3 years (<i>or shorter for the first review</i>) the AER must undertake a review (cost threshold review) of the changes in the input costs used to calculate the estimated capital costs in relation to <i>investments subject to the regulatory investment test for distribution and the cost threshold for refurbishment, replacement, and urgent and unforeseen investments subject to the Distribution Annual Planning Report</i>, for the purposes of determining whether the amounts of:</p> <ul style="list-style-type: none"> <li>(1) \$5 million referred to in clauses 5.6.5CB(a)(2) and (8);</li> <li>(2) \$10 million referred to in clause 5.6.6AB(t)(2); and</li> <li>(3) \$20 million referred to in clause 5.6.6AB(y); and</li> <li>(4) \$2 million referred to in clause S5.8(7),</li> </ul> <p style="padding-left: 40px;">(each a cost threshold) need to be changed...</p> <p>ENERGEX notes that clauses 5.6.5E(a) and 5.6.5E(a1) do not refer to the definitions of terms where a monetary threshold may be varied by a cost threshold determination (eg. see the definition of 'potential transmission project'). ENERGEX seeks further clarity on this point.</p> <p><u>Clause 5.6.5D(a)(2)</u></p> <p>ENERGEX notes that 'commercially feasible' is undefined and can have a wide range of interpretations. ENERGEX suggests that this phrase be replaced with 'economically feasible'. This is consistent with the language of the Principles, which refer to net economic benefit. The Principles also explicitly note for the potential for negative NPV options to be required, which could be argued to be commercially unfeasible.</p> <p>ENERGEX also notes there appears to be a typographical error in this clause as the reference to paragraph (b) should be a reference to paragraph (b1).</p> <p><u>Clause 5.6.5D(b1)(4)</u></p> <p>ENERGEX suggests that it is unclear why an option being a network or non-network option is relevant to its status as a credible option. The credible option 'criteria' are set out in 5.6.5D(a). ENERGEX submits that it is not clear how network vs non-network is a factor relevant to the assessment of an option against these criteria.</p>

Issue	Comments
	<p><u>Clause 5.6.5D(b1)(5)</u></p> <p>ENERGEX is concerned that DNSPs are not in a position nor is it appropriate for a DNSP to assess whether a credible option is 'intended to be regulated'. Regulation of services/assets is determined by the AER. ENERGEX notes that under 5.6.5D(b1)(4), it is not clear why regulation is a relevant factor.</p> <p><u>Clause 5.6.5D(b1)(5), (6)</u></p> <p>ENERGEX suggests that both these clauses should not refer to 'credible options' but rather be amended to 'the option' because a DNSP, at this stage in the process, has not yet determined whether the option is credible.</p> <p><b>Clause 5.6.5E (Review of Cost Thresholds)</b></p> <p><u>Clause 5.6.5E(b)</u></p> <p>ENERGEX suggests that the date of the first cost threshold review, being 31 July 2013, is a more appropriate date because the new Rules are unlikely to be finalised until mid 2012.</p> <p><b>Clause 5.6.6AB (Procedures)</b></p> <p><u>Definition of 'interested party' (paragraph (b))</u></p> <p>It is unclear how a Transmission Network Service Provider and Distribution Network Service Provider can be expected to be aware of parties who in the AER's (or AEMO's) opinion have the potential to suffer a market impact or who only identify themselves as such to the AER (or AEMO). This is important because these parties are required to be consulted (see cl.5.6.6AB(b), (o)). Moreover, paragraph (b) should also refer to joint network investments.</p> <p><b>1. Specification Threshold Test (STT)</b></p> <p><u>Clause 5.6.6AB(d) – 'technically feasible'</u></p> <p>The STT, as it is currently drafted, allows a stream lining of the assessment process only if the DNSP cannot identify a technically feasible non-network option to defer or remove the need for investment. ENERGEX submits that the phrase 'technically feasible' would result in the DNSP never being able to apply the streamlined limb of the assessment process, therefore rendering the STT ineffective. ENERGEX believes that this outcome is not what was intended by including the STT in the RIT-D process.</p> <p>ENERGEX submits that the phrase 'technically feasible non-network options' should be amended to 'credible options which are non-network options'. This amendment would require non-network options to address the need, be economically/commercially and technically feasible and be able to be completed in time. This amendment puts some realistic bounds on the scope of options. It would also enable clauses 5.6.6AB(d)(1) and (2) to be merged into a single requirement.</p>

Issue	Comments
	<p>ENERGEX suggests that its proposed amendment was the original intention of the AEMC. However, this intention has not flowed through to the Draft Rules. On this issue, ENERGEX notes the AEMC's comments in its Final Report:</p> <p style="padding-left: 40px;"><i>'...if a DNSP identifies the potential for non-network solutions under the STT and no non-network provider is identified with the non-network option, the DNSP would still be required to consider the non-network option under the project assessment process as long as the option is commercially and technically feasible and can be implemented in sufficient time to meet the need'.<sup>1</sup></i></p> <p>ENERGEX also submits that the AER Guidelines should be required to provide examples of non-network options which would not be technically feasible. The AER examples would give guidance to DNSPs as to when a DNSP can utilise the streamlined process under the STT.</p> <p><u>Clause 5.6.6AB(d) – 'proposed'</u></p> <p>ENERGEX submits that the term 'proposed' under clause 5.6.6AB(d) and which is used in subsequent clauses (clause 5.6.6AB(m)), creates unnecessary confusion. At this stage of the RIT-D the DNSP has not proposed any investment, the DNSP has only identified a need. ENERGEX considers that the phrase 'proposed investment' be reworded to simply state 'investment', and the phrase 'proposed distribution investment' to simply state 'distribution investment'.</p> <p><u>Clause 5.6.6AB(t)(1) – 'material'</u></p> <p>ENERGEX suggests that the appropriateness and scope of the term 'material' in (t)(1) needs to be amended because the STT does not put a materiality threshold on the options. This appears to be an internal inconsistency in the draft Rules.</p> <p><u>Appendix A Flowchart</u></p> <p>ENERGEX has concerns in relation to the accuracy of the AEMC's flowchart set out in Appendix A of the Rule Change Consultation Paper. The flowchart indicates a 2 week publication deadline. However, the Rules do not mention a 2 week deadline anywhere. ENERGEX suggests that the AEMC review the flowchart to provide consistency and clarity.</p>

<sup>1</sup> Review of National Framework for Electricity Distribution Network Planning and Expansion – Final Report page 58.

Issue	Comments
	<p data-bbox="824 247 1189 276"><b>2. Project Specification Stage</b></p> <p data-bbox="779 308 987 336"><u>Clauses 5.6.6AB(f)</u></p> <p data-bbox="779 368 2130 424">ENERGEX suggests that clause 5.6.6AB(f) appears to be unnecessarily convoluted and onerous and may be amended to read as follows:</p> <p data-bbox="835 456 2119 547"><i>‘A DNSP must carry out the requirements of paragraphs (g) to (l) where a STT assessment by the DNSP determines that there are credible options that are non-network options which can either defer or remove the need for the proposed distribution investment’.</i></p> <p data-bbox="779 579 1021 608"><u>Clause 5.6.6AB(g), (h)</u></p> <p data-bbox="779 639 2130 759">ENERGEX is concerned that clause 5.6.6AB(g) only requires the DNSP to consult on the identified need, however 5.6.6AB(h) extends the consultation to options. ENERGEX notes that the term ‘options’ in 5.6.6AB(h)(6) is undefined and should be amended to ‘credible options’. Such an amendment would make it consistent with the wording adopted in the AEMC’s Appendix A flowchart.</p> <p data-bbox="779 791 2085 882">ENERGEX therefore submits that (g) be amended to state ‘A DNSP will be required to consult on the identified need and credible options as set out in (h)-(l)’, and the term ‘options’/‘investment options’ be changed to ‘credible options’ in (h). This wording would more accurately reflect what appears to be the intention of this clause.</p> <p data-bbox="779 914 2085 1003">ENERGEX also notes that under clause 5.6.6AB(h)(3), it appears to be unclear what is meant by the phrase ‘the relevant annual deferred augmentation charge associated with the identified need’. Further clarity by the AEMC is requested on this point.</p> <p data-bbox="779 1035 976 1064"><u>Clause 5.6.6AB(k)</u></p> <p data-bbox="779 1096 1630 1125">ENERGEX also suggests that clause 5.6.6AB(k) should be amended to read as:</p> <p data-bbox="835 1157 2141 1248"><i>‘ A Distribution Network Service Provider must publish any preliminary or supplementary information where it is believed by the Distribution Network Service Provider that such information is likely to materially enhance the ability of a party to engage effectively in the project specification report consultation process.’</i></p> <p data-bbox="779 1279 2119 1495">ENERGEX is concerned that without the amended wording, DNSPs are obliged to publish all preliminary and supplementary information to ensure that third party disputes cannot be raised at a later stage relating to the provision of such material. ENERGEX considers that its proposed amendment to clause 5.6.6AB(k) balances the objectives of transparency and proportionality. ENERGEX notes that if such information was identified, it would also be contained in the Draft Report, which is also subject to a period of consultation. ENERGEX further notes that DNSPs are also subject to jurisdictional obligations pertaining to transparency under the Government Owned Corporation framework, Public Records Act and Right to Information Legislation.</p>



Issue	Comments
	<p><u>Interpreting the requirement of 'consult'</u></p> <p>The term 'consult' is used throughout RIT-D and may be subject to different interpretations as to what is actually required by the term. For example, consulting under 5.6.6AB(g) may be different as to what form of consultation is required under clause 5.6.6AB(p) and it may be interpreted differently across DNSPs. This outcome would not be consistent with the principle of seeking consistency across the NEM. ENERGEX suggests that the term 'consult' should be defined under Chapter 10. ENERGEX is concerned that since the classes of disputing parties has been broadened, the lack of clarity behind the term 'consult' has the potential to be the subject of numerous and lengthy disputes.</p> <p><b>3. Draft Project Assessment Report (DPAR)</b></p> <p><u>Clauses 5.6.6AB(m)</u></p> <p>ENERGEX submits that clause 5.6.6AB(m) is unclear whether the time periods refer to the proceeding of the investment or the preparation of the DPAR. Assuming that the time periods relates to the preparation of the DPAR, then:</p> <ul style="list-style-type: none"> <li>• what if the AER does not agree to extend the timeframe, and</li> <li>• clarity is required as to when the 12 month period commences. For example, is it 12 months within the closing date of submissions on the project specification report or the STT?</li> </ul> <p>Alternatively, assuming this clause relates to the proceeding of the investment, ENERGEX questions whether the time period is deemed to be the design stage. If the 12 months refers to actual construction, then very few projects achieve this within 12 months.</p> <p>ENERGEX suggests that clause 5.6.6.6AB(m) be amended as follows:</p> <p style="text-align: center;"><i>If the Distribution Network Service Provider elects to proceed with the proposed distribution investment then, within:</i></p> <p style="text-align: center;"><i>(1) 12 months, or</i></p> <p style="text-align: center;"><i>(2) any longer time period as agreed to in writing by the AER</i></p> <p style="text-align: center;"><i>of the end of the consultation period on a project specification report or (where relevant) the publication by the Distribution Network Service Provider of a Specification Threshold Test report, the Distribution Network Service Provider must prepare a draft project assessment report, having regard to the submissions received, if any, and publish that report.</i></p> <p>Clause 5.6.6AB(m)(2) enables the AER to extend the 12 month period within which the DNSP elects to proceed with the proposed distribution investment. ENERGEX suggests that the AER Application Guidelines should specify situations in which it would grant such an extension.</p>

Issue	Comments
	<p>ENERGEX suggests that it is unclear what would happen if the AER rejected an application to extend the 12 month period. For example, would a DNSP be required to undertake another RIT-D? ENERGEX seeks further clarity on this issue.</p> <p>ENERGEX is concerned that the references to 'elect to proceed' are made prior to the finalisation of the RIT-D process. If it is acknowledged that for project planning purposes a distribution investment may need to commence prior to the finalisation of the RIT-D process, this provides strong reasoning to narrow the scope to raise disputes (per ENERGEX's comments in section 6.1 below).</p> <p><u>Clause 5.6.6AB(p)</u></p> <p>The phrase 'quality of service' is not defined under Chapter 10. ENERGEX suggest that this phrase may be interpreted broadly by some consumers, as well as community groups.</p> <p>ENERGEX also notes that the phrase 'preferred option' should be italicised as it is defined in the draft Rules.</p> <p><u>Clause 5.6.6AB(r)</u></p> <p>ENERGEX suggests that the requirement to meet where two or more parties request it, is unreasonable, given the potentially broad scope of interested parties and parties on the DNSP's Demand Side Engagement Register. ENERGEX believes that consultation by submission process should be sufficient.</p> <p><u>Clause 5.6.6AB(s)</u></p> <p>ENERGEX is concerned why the phrase 'proposed distribution investment' is used in this clause. ENERGEX suggests a more accurate phrase would be 'proposed preferred option'. At this stage the DNSP has already identified a preferred option (as per the wording clause 5.6.6AB(n)(10)).</p> <p><u>Clause 5.6.6AB(t)(1)</u></p> <p>ENERGEX suggests that this clause should refer to 'no credible options that are non-network options which can either defer or remove ... ' (see comments above and cl.5.6.6AB(f)).</p> <p><u>Clause 5.6.6AB(t)(2)</u></p> <p>The reference to 'preferred option' is confusing. A preferred option must maximise NPV. However, there is no opportunity to undertake the NPV analysis. The STT stage does not require any NPV analysis.</p>

Issue	Comments
	<p><b>4. Final Project Assessment Report</b></p> <p><u>Clause 5.6.6AB(x)</u></p> <p>ENERGEX suggests that clause 5.6.6AB(x) is unclear because it does not appear to contemplate the requirement to publish a FPAR after fast tracking RIT-D through the DPAR exemption under clause 5.6.6AB(t). This means the requirement to set out matters detailed in the DPAR and summarise submissions on the DPAR is impossible, if a DPAR was never required to be published. ENERGEX submits that the AEMC clarify this clause because it provides no guidance as to what is to be included in the FPAR if this is a fast tracked RIT-D. ENERGEX suggests that the drafting be amended as follows:</p> <p><i>The FPAR must:</i></p> <p>(1) <i>set out the matters required to be detailed in the DPAR under paragraph (n); and</i></p> <p>(2) <i>summarise any submissions received on the DPAR and the DNSP's response to each submission..</i></p> <p><u>Clause 5.6.6AB(v)</u></p> <p>ENERGEX suggests that the option to publish in the DAPR may be unrealistic because the dispute resolution process would not commence until the DAPR is published. ENERGEX notes that it is unlikely a business will be willing to take this risk.</p> <p><u>Clause 5.6.6AB(z)</u></p> <p>ENERGEX is concerned that clause 5.6.6AB(z) imposes a requirement on the AER's distribution determinations and queries whether such a requirement is necessary (especially given the similar changes made to clauses 6.5.6(e)(11), 6.5.7(b)(4) and 6.5.7(e)(11)), and if so, whether it is best incorporated in Chapter 6 of the Rules.</p>
<p>5.2 Do you consider it is necessary to provide the AER with additional powers to (1) review a DNSPs policies and procedures with regard to the consideration of non-network alternatives and (2) audit projects which have been identified by DNSPs as not meeting the threshold for the RIT-D?</p>	<p><u>Power to review Demand Side Engagement Strategy</u></p> <p>As noted in the Consultation Paper, the AER already has a number of functions and powers in relation to monitoring, investigating and enforcing compliance and issues quarterly compliance reports setting out the results of its monitoring and enforcement activities. In light of the enforcement powers that the AER already has under existing arrangements, it is unnecessary for the AER to be given the additional powers proposed.</p> <p><u>Power to review non RIT-D projects</u></p> <p>Every five years, as part of a DNSP's regulatory reset, the AER examines whether:</p> <p><i>'the governance frameworks, capex policies and procedures are likely to result in investment decisions, on which the capex proposals are based, are consistent with the capex objectives'.<sup>2</sup></i></p>

<sup>2</sup> AER Queensland Draft Distribution Determination 2010-11 to 2014-15.

Issue	Comments
	<p>Therefore, ENERGEX does not support the AER being provided with additional audit powers in relation to those projects which fall outside the scope of RIT-D because the framework in which DNSPs identify and determine these projects are examined by the AER as part of each regulatory determination.</p>
<p>5.3 Should the AER be required to publish a separate annual report detailing the results of any audit undertaken in the preceding 12 months?</p>	<p>Currently, the AER monitors DNSP compliance with the Rules on a regular basis. The findings of such audits and reviews are published in the AER's quarterly compliance reports. ENERGEX suggests that any further proposal to publish an additional annual compliance report is unnecessary and ultimately imposes additional costs.</p>
<p>5.4 Other Issues</p>	<p><u>Change in scope or cost</u></p> <p>ENERGEX suggests that the AEMC and AER should consider circumstances which result in a different scope or cost being incurred on RIT-D completed projects, as a consequence of unforeseen/uncontrollable events. It is ENERGEX's experience that these events are on the increase and involve community concern and outcomes from jurisdictional and environmental approvals. ENERGEX seeks clarity as to whether a DNSP is required to undertake a new RIT-D in these circumstances.</p> <p><u>Credits for recovered plant</u></p> <p>ENERGEX notes that in carrying out economic analysis some options may have a credit for recovered plant that could be used as part of a different augmentation. ENERGEX suggests that the AEMC should confirm that credits for recovered plant should be allowed against the respective option.</p> <p><u>Clause 5.6.4A(m)</u></p> <p>ENERGEX notes that clause 5.6.1A(m) contemplates that provisions analogous to clause 5.6.6AA will apply in respect of the RIT-D, yet no consequential amendments have been made to enable this to occur (see also the absence of a reference to cl.5.6.6AA in cl.5.6.5CA(g)(1)).</p>
<p><b>6. Dispute Resolution</b></p>	
<p>6.1 Do you consider the proposed scope of parties who could raise a dispute to be appropriate?</p>	<p><u>Proposed scope of matters in which a dispute can be raised is too broad</u></p> <p>While ENERGEX understands the intention of widening the scope for which disputes can be raised, ENERGEX is concerned that the proposed scope is too broad and would result in significant and unreasonable delays to the planning process. ENERGEX suggests that unless the publishing of the FPAR results in significant divergence from the DPAR, parties should not be able to raise a dispute in relation to an issue they could have raised during the consultation phase of the DPAR.</p>

Issue	Comments
	<p>ENERGEX suggests that 5.6.6AC(b) should be amended to include a subparagraph (3) which provides that:</p> <p><i>A dispute under this clause 5.6.6AC may not be raised in relation to any conclusions set out in the FPAR which are based on matters that:</i></p> <p><i>(3) set out in the DPAR and were not disputed during the consultation on the DPAR.</i></p> <p>This subparagraph will remove the opportunity for vexatious or frivolous disputes being raised on matters in the FPAR and limit the ability to wait until the dispute resolution stage to engage in the RIT-D process.</p> <p>ENERGEX notes that should the AEMC amend 5.6.6AC(b), clause 5.6.6A(b) should also be amended.</p> <p>ENERGEX also suggests that:</p> <ul style="list-style-type: none"> <li>• (c)(1) be amended such that the dispute notice must not only set out the grounds for the dispute, but identify which specific paragraphs of the Rules are the subject of the dispute. This will allow the DNSP to understand the reasons for the dispute and prepare an appropriate response. It will also stop ambit and generalised dispute claims and ensure efficient resolution of any dispute raised.</li> <li>• the AER set out guidelines and a framework that must be followed by those parties wanting to raise a dispute. Such guidelines and framework would help clarify what is being disputed and help ensure disputes are resolved in a timely manner.</li> </ul>
<p>6.2 What are the implications (positive and negative) of allowing the AER to grant exemptions from the proposed dispute resolution process?</p>	<p>ENERGEX suggests that the major positive implication is alluded to in (j). It allows the AER to act in the best interests of the market, noting that certain investments may be time-sensitive and essential to maintain secure supply.</p>
<p>6.3 Is there a need to develop detail or specification around the process for applying to the AER for, and the AER approving, exemptions to the dispute resolution process?</p>	<p>ENERGEX is supportive of developing a specification around such a process. The process and grounds for seeking an exemption should be provided for in the Rules and ENERGEX suggests that this may require a new clause 5.6.6AC(d) to be inserted to deal with these issues.</p>
<p>6.4 Other Issues</p>	<p><u>Corrections to cross referencing</u></p> <p>ENERGEX suggests that clause 5.6.6AC(d)(3) be amended to also cross reference paragraph (g).</p> <p>ENERGEX also suggests that the definition of disputing party requires amendment as the cross reference should be to cl.5.6.6AC(c) and not cl.5.6.6AC(c)(1).</p>

Issue	Comments
	<p><u>Ambiguity in clause 5.6.6AC(f)(3)</u></p> <p>ENERGEX is concerned that clause 5.6.6AC(f)(3) is ambiguous as to the time extension contemplated by clause 5.6.6AC(f)(3) and the operation of clause 5.6.6AC(i). ENERGEX believes that to avoid delay, the time extension should be limited to the time in which the relevant party would reasonably require to provide the requested information. ENERGEX therefore suggests that it would be preferable to remove the reference to the time extension in clause 5.6.6AC(f)(3).</p> <p><u>Granting an exemption under clause 5.6.6AC(j)</u></p> <p>ENERGEX is concerned that clause 5.6.6AC(j) does not appear to be a provision that permits the AER to grant an exemption from the dispute resolution process in the first place and upon which this clause can therefore operate.</p> <p><u>Definition of 'interested party'</u></p> <p>Under paragraphs (a) and (b) in Chapter 10's definition of the phrase 'interested party' , ENERGEX suggests that reference should be made to joint network investments as well as to transmission and distribution investments.</p>
<b>7. Implementation &amp; Transition</b>	
<p>7.1 Are there any issues in respect of the rolling back of jurisdictional requirements that may need to be supported or provided for by transitional provisions in the Rules?</p>	<p>The AEMC is making its recommendations based on the assumption that jurisdictional planning and reporting requirements will be rolled back once the national framework is introduced. ENERGEX remains of the view that this may be a difficult process to achieve as existing reporting is governed by jurisdictional regulatory instruments which take considerable time to amend. This issue also needs to be taken into consideration and provided for by the transitional provisions in the Rules to effect an efficient application of the proposed Rules.</p> <p>ENERGEX submits there should be no duplication in annual network reporting requirements at a state and national level. Arrangements will need to provide for a smooth transition from the current jurisdictional reporting (i.e. the Network Management Plan and Demand Management Plan) to the national requirements in order to alleviate duplication of reporting.</p>
<p>7.2 If the proposed national framework was to be introduced, are the proposed timeframes appropriate to allow for the transition to the national framework?</p>	<p>No comment.</p>
<p>7.3 Are there any other factors that should be taken into account in developing transitional provisions to enable the efficient potential application of the proposed Rule to all DNSPs?</p>	<p><u>Compliance with Clause 5.6.6AB</u></p> <p>ENERGEX has concerns that the draft Rules do not appear to state that compliance with the RIT-D procedures set out under clause 5.6.6AB can only commence after the publication of the RIT-D and Application Guidelines by the AER. Without this clarity, DNSPs would need to comply with the procedures as soon as the Rules are made. ENERGEX suggests that the draft Rules be amended to reflect this compliance requirement.</p>

Issue	Comments
	<p data-bbox="779 245 1258 271"><u>Compliance with AER Application Guidelines</u></p> <p data-bbox="779 306 2074 427">The AER has 12 months to publish the RIT-D and Application Guidelines. ENERGEX submits that the Draft Rules or AER Guidelines should specify the timeframe, after the release of the Guidelines, within which a DNSP is required to comply. ENERGEX suggests that at least a six month transitional period is necessary because, at a minimum, the following will be required:</p> <ul data-bbox="833 462 1948 849" style="list-style-type: none"> <li data-bbox="833 462 1675 488">• AER RIT-D and Application Guidelines will have to be thoroughly reviewed;</li> <li data-bbox="833 523 1312 549">• development of planning documentation;</li> <li data-bbox="833 584 1948 609">• development of benefit analysis and non-network analysis tools including regression and automation;</li> <li data-bbox="833 644 1684 670">• development of an NPV model followed by internal training for relevant staff;</li> <li data-bbox="833 705 1375 730">• development of IT systems to support process;</li> <li data-bbox="833 766 1375 791">• development of internal reporting systems; and</li> <li data-bbox="833 826 1680 852">• RIT-D training will have to be rolled out to all affected areas of the business.</li> </ul> <p data-bbox="779 884 1290 909"><u>Transitioning from the Regulatory Test to RIT-D</u></p> <p data-bbox="779 944 2136 1027">ENERGEX is concerned that the Draft Rules provide no guidance as to what stage a DNSP will be required to comply with RIT-D in relation to projects that started data analysis under the current Regulatory Test but have not completed the Regulatory Test.</p> <p data-bbox="779 1062 2083 1184">ENERGEX suggests that for the purposes of projects transitioning from the Regulatory Test to the RIT-D and/or the RIT-D Application Guidelines, any projects not completed at the date of the relevant amendment to the RIT-D and/or the RIT-D Application Guidelines should be completed under the Regulatory Test. ENERGEX believes that the Draft Rules should be amended to incorporate this flexibility in transition.</p>
<p data-bbox="116 1225 752 1347">7.4 From a market participant perspective, are there any implications in not aligning the proposed introduction of the national framework with the commencement of the NECF?</p>	<p data-bbox="779 1225 2119 1347">ENERGEX does not expect there will be any implications in not aligning the proposed introduction with the commencement of NECF. The introduction of NECF is to commence on 1 July 2012, which ENERGEX anticipates will be prior to the introduction of the national planning framework and will not provide sufficient time for market participants to transition to the national framework.</p> <p data-bbox="779 1382 2110 1439">In addition, ENERGEX does not believe that the two reforms need to be aligned for introduction as they are not related in any way.</p>

Issue	Comments
<b>8. Miscellaneous</b>	
8.1 Other	<p>ENERGEX notes that change to clause S5.1.9(j) is unnecessary as the term 'new network investment' will cease to be defined and it is not italicised in any event.</p> <p>ENERGEX suggests that the Chapter 10 definition of 'considered project' (paragraph (3)(iii)) be amended to insert 'or joint network investment' after 'transmission investment' and delete 'distribution' before 'transmission'. ENERGEX also queries when the RIT-D would apply to a transmission investment (see also paragraph (a)(3)(ii)).</p> <p>ENERGEX suggests that under the Chapter 10 definition of 'firm delivery capacity' definition, the reference to equipment should be deleted (see the definition of 'total capacity') and 'having regard to' should be substituted for 'giving consideration to'.</p>
8.2 Typographical errors	<p>ENERGEX notes that there are a number of typographical errors, including:</p> <ul style="list-style-type: none"> <li>• defined terms that are not italicised ('non-network' and 'network augmentation' in the definition of non-network provider; 'connections' in cl.5.6.1A(b); 'design fault levels' in cl.5.6.2AA(g)(2)(iv); 'AER' and 'business day' in cl.5.6.2AA(u)&amp;(w); 'review', 'network', 'audit', 'AER', 'publish' and 'Demand Side Engagement Strategy' in cl.5.6.5CB(f) – (h), 'cost threshold' and 'cost threshold review' in cl.5.6.5(a)(1); and 'publish' in cl.5.6.6AB(v));</li> <li>• italicised terms that are not defined ('embedded generation' in the definition of non-network provider and in cl.S5.8(12); 'connection application' in cl.5.6.2AA(l)(15); 'customer' in cl.5.6.2AA(g)(1)(v), 5.6.5CA(c)(4)(ii) and 5.6.6AB(p)(2); and 'capacity' in cl.S.5.8(14));</li> <li>• defined terms that are incorrectly referred to ('Customer transmission use of system charges' in cl.5.6.2AA(l)(12)); and 'Embedded Generators' in cl.5.6.2AA(d)(13));</li> <li>• the definition of 'transmission-distribution connection point' should refer to the agreed point of supply established between 'a transmission system and a distribution system'.</li> </ul>