

## **CHAPTER 11**



## 11. Savings and Transitional Rules

### Part A Definitions

For the purposes of this Chapter:

**old clause 6A.7.4(f)** means clause 6A.7.4(f) of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012) as in force immediately prior to the commencement of Schedules 1 to 3 and 5 of the National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012.

**statement of regulatory intent** means the relevant statement adopting values, methods and credit rating levels for *Distribution Network Service Providers* or for specified classes of *Distribution Network Service Providers* issued by the *AER* before the commencement of Schedules 1 to 3 and 5 of the National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012.

**submission guidelines** mean the relevant guidelines made by the *AER* for the purposes of guiding a *Transmission Network Service Provider* in the submission of a *Revenue Proposal* under Part E of Chapter 6A before the commencement of Schedules 1 to 3 and 5 of the National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012.

**WACC** means the relevant weighted average cost of capital being for a *Network Service Provider* for a *regulatory control period*, being the return on capital for that *Network Service Provider* for that *regulatory control period* calculated in accordance with Chapters 6 or 6A (as the case may be) before the commencement of Schedules 1 to 3 and 5 of the National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012.

### Part B System Restart Ancillary Services (2006 amendments)

#### 11.2 Rules consequent on making of the National Electricity Amendment (System Restart Ancillary Services and pricing under market suspension) Rule 2006

##### 11.2.1 Transitional provision for acquisition of non-market ancillary services

(a) For the purposes of clause 11.2.1:

**Amending Rule** means the National Electricity Amendment (System Restart Ancillary Services and pricing under market suspension) Rule 2006.

**Existing NMAS contract** means an *ancillary services agreement* between *NEMMCO* and another person to acquire *non-market ancillary services* from that person, entered into prior to the *NMAS* commencement date.

**NMAS commencement date** means the date of commencement of the National Electricity Amendment (System Restart Ancillary Services and pricing under market suspension) Rule 2006;

(b) On the *NMAS* commencement date

- (1) Any action taken by *NEMMCO* or a *Rules body* prior to the *NMAS* commencement date in anticipation of the commencement of the Amending Rule is deemed to have been taken for the purpose of the Amending Rule and continues to have effect for that purpose.
- (2) *NEMMCO* may continue to acquire *non-market ancillary services* under an existing *NMAS* contract and may extend the period of an existing *NMAS* contract for such period as *NEMMCO* and that person reasonably determine.
- (3) At any time when no *system restart standard* under clause 8.8.1(a)(1A) is in force, *NEMMCO* must develop and *publish* an interim *system restart standard* that is:
  - (i) consistent with the requirements in clause 8.8.3(aa); and
  - (ii) approved by the *Reliability Panel*;

and the interim *system restart standard* applies until such time as the *Reliability Panel* determines a *system restart standard*.

### 11.3 [Deleted]

## Part C Dispute Resolution for Regulatory Test (2006 amendments)

### 11.4 Rules consequent on making of the National Electricity Amendment (Dispute Resolution for Regulatory Test) Rule 2006

#### 11.4.1 Continuation of things done under old clause 5.6.6

(a) For the purposes of clause 11.4.1:

**amending Rule** means the National Electricity Amendment (Dispute Resolution for Regulatory Test) Rule 2006

**commencement date** means the date of commencement of the amending Rule

**new clause 5.6.6** means clause 5.6.6 after the commencement of the amending Rule

**old clause 5.6.6** means clause 5.6.6 before the commencement of the amending Rule.

(b) On the commencement date:

- (1) any dispute commenced under the old clause 5.6.6 and not completed before the commencement date, must continue to be conducted and completed as if it were a dispute commenced in accordance with the old clause 5.6.6.
- (2) Subject to clause 11.4.1(b)(1), any action taken under the old clause 5.6.6 is deemed to have been taken for the purposes of the corresponding requirement in the new clause 5.6.6 and continues to have effect for those purposes.

## **Part D Metrology (2006 amendments)**

### **11.5 Rules consequential on the making of the National Electricity Amendment (Metrology) Rule 2006**

#### **11.5.1 Definitions**

For the purposes of this rule 11.5:

**Amending Rule** means the *National Electricity Amendment (Metrology) Rule 2006*.

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

**old Chapter 7** means Chapter 7 of the *Rules* as in force immediately before the commencement date.

**new Chapter 7** means Chapter 7 of the *Rules* as in force immediately after the commencement date.

#### **11.5.2 Metrology procedures continues to apply until 31 December 2006**

A metrology procedure as in force under the old Chapter 7 continues in force in accordance with the old Chapter 7 until 31 December 2006.

#### **11.5.3 Responsible person**

A *Local Network Service Provider* who is the responsible person for a *metering installation* under Chapter 9 of the *Rules* immediately before the commencement date continues to be the *responsible person* for that *metering installation* for the purposes of clause 7.2.3.

#### **11.5.4 NEMMCO's responsibility to develop a metrology procedure**

- (a) Subject to this clause 11.5.4, *NEMMCO* must *publish* an initial metrology procedure by 1 January 2007 in accordance with the new Chapter 7 and this procedure must commence operation on 1 January 2007.
- (b) The requirement in clause 7.14.1(b) that requires a minimum period of 3 months between the date the *metrology procedure* is published and the date

the *metrology procedure* commences does not apply to the initial metrology procedure developed and published under this clause 11.5.4.

- (c) Any action taken by *NEMMCO* for the purpose of developing and publishing an initial metrology procedure prior to the commencement date is taken to satisfy the equivalent actions required for a *metrology procedure* under the new Chapter 7.
- (d) *NEMMCO* may dispense with, or not comply with, any relevant action under rule 7.14, if the action duplicates or is consistent with action that has already been taken under paragraph (c).
- (e) An initial metrology procedure developed and published under this clause 11.5.4 is taken to be the *metrology procedure* for the purposes of Chapter 7 of the *Rules*.
- (f) The initial metrology procedure is not required to incorporate the matters referred to in clause 7.14.1(c)(4) until 30 June 2008 and *NEMMCO* may develop a separate procedure for those matters during that period to 30 June 2008.

#### **11.5.5 Jurisdictional metrology material in the metrology procedure**

- (a) For the purposes of this clause 11.5.5, expiry date means 1 January 2009.
- (b) Until the expiry date, the *Ministers of the MCE* is taken to be each *Minister of the participating jurisdictions*, acting on behalf of that jurisdiction and undertaking the role of the *Ministers of the MCE* in relation to *jurisdictional metrology material* under clause 7.14.2.
- (c) For the avoidance of doubt, a *Minister of a participating jurisdiction* may delegate the role of submitting *jurisdictional metrology material* to *NEMMCO* under paragraph (b) by instrument in writing.
- (d) A certified copy of any delegation given under paragraph (c) must be provided to *NEMMCO* at the time any *jurisdictional metrology material* is submitted to *NEMMCO* under clause 7.14.2.

**Note:**

*Ministers of participating jurisdiction* have powers of delegation under their own jurisdictional legislation governing the procedure for conferring such delegations.

## **Part E Economic Regulation of Transmission Services (2006 amendments)**

### **11.6 Rules consequent on making of the National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006**

#### **11.6.1 Definitions**

Subject to this rule 11.6, in this rule 11.6:

**Amending Rule 2006** means the *National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006*.

**commencement date** means the date on which the *Amending Rule 2006* commences operation.

**current regulatory control period** means the regulatory control period applicable to an existing revenue determination.

**distribution matters** includes matters relating to the economic regulation of *distribution services*, including, but not limited to, existing determinations, decisions, instruments, agreements or any other relevant action.

**ElectraNet** means ElectraNet Pty Ltd ACN 094 482 416 trading as ElectraNet.

**existing revenue determination** means any determination made, or deemed to be made, by the *ACCC* or the *AER* on or prior to the commencement date for the purpose of regulating the revenues of a *Transmission Network Service Provider*.

**first regulatory control period** means a *regulatory control period* immediately after a current regulatory control period.

**first revenue cap determination** means the first *revenue cap determination* after an existing revenue cap determination.

**new Chapter 6A** means Chapter 6A of the *Rules* as in force immediately after the commencement of the *Amending Rule 2006*.

**old Chapter 6** means Chapter 6 of the *Rules* as in force immediately before the commencement of the *Amending Rule 2006*.

**old clause 6.5.9** means clause 6.5.9 of the *Rules* as in force immediately before the commencement of the *Amending Rule 2006*.

**old Part C** means Part C (Transmission Pricing) of Chapter 6 of the *Rules* as in force immediately before the commencement of the *Amending Rule 2006*.

**old Part F** means Part F (Interconnections) of Chapter 6 of the *Rules* as in force immediately before the commencement of the *Amending Rule 2006*.

**relevant action** includes (without limitation) any of the following actions in relation to *distribution* matters:

- (a) the performance or exercise of any function, power, obligation or right;
- (b) the making or publishing of any guideline, standard, procedure, report, negotiating framework or other document;
- (c) the giving, publishing, service or receipt of any communication, notice or other document;
- (d) the provision or receipt of any submission or information;
- (e) the making or receiving any inquiry, request or application;
- (f) the undertaking or completion of any transaction;
- (g) the payment of any monetary amount or fee.

**renumbered Chapter 6** means Chapter 6 of the *Rules* as in force immediately after the commencement of the *Amending Rule 2006*.

**SP AusNet** means SPI PowerNet Pty Ltd ACN 079 798 173.

**Statement of Regulatory Principles** means the Statement of Principles published by the *AER* as part of the Compendium of Electricity Transmission Regulatory Guidelines dated August 2005.

**VENCorp** means the Victorian Energy Networks Corporation established under the *Gas Industry Act 1994* (Vic) and continued under the *Gas Industry Act 2001* (Vic).

#### **11.6.2 New Chapter 6A does not affect existing revenue determinations**

- (a) Subject to this rule 11.6, the old Chapter 6 continues to apply to and in respect of, existing revenue determinations as if the new Chapter 6A had not been made.
- (b) The Amending Rule 2006 has no effect on the continuing operation of clause 9.8.4G.
- (c) The Amending Rule 2006 has no effect on the continuing operation of clause 9.16.5 in so far as it:
  - (1) applies to deem a revenue cap for the *financial year* commencing on 1 July 2004;
  - (2) specifies the basis on which prices for certain transmission services during the *financial year* commencing on 1 July 2004 are to be determined;



- (3) specifies the manner in which clause 6.4.3C of the old Chapter 6 is to apply for the *financial year* commencing on 1 July 2005; and
- (4) deems a revenue cap for the period commencing on 1 July 2004 until the end of 30 June 2009 to be for a period of five years.

### **11.6.3 Old Part C and Schedules 6.2, 6.3, 6.4, 6.7 and 6.8 of old Chapter 6**

Subject to this rule 11.6 and rule 11.8, old Part C (including Schedules 6.2, 6.3, 6.4, 6.7 and 6.8) continues to apply for the duration of a current regulatory control period.

### **11.6.4 Old Part F of Chapter 6**

Subject to this rule 11.6, old Part F of Chapter 6 continues to apply for the duration of a current regulatory control period.

### **11.6.5 Application of new Chapter 6A to Transmission Network Service Providers**

Subject to this rule 11.6, a *Transmission Network Service Provider* is not required to submit a *Revenue Proposal* or a proposed *negotiating framework* to the AER under the new Chapter 6A until a date that is 13 months before the expiry of a current regulatory control period.

### **11.6.6 Application of Chapter 6 to old distribution matters**

- (a) The restructuring and renumbering of provisions of the old Chapter 6 by the *Amending Rule 2006* does not affect:
  - (1) *distribution* matters occurring or in existence before the commencement date; or
  - (2) anything done or omitted to be done in respect of *distribution* matters before the commencement date.
- (b) Without limiting paragraph (a), anything done or omitted to be done under a provision of the old Chapter 6 in respect of *distribution* matters before the commencement date is deemed to have been done or omitted to be done under the corresponding provision of that Chapter as restructured and renumbered by the *Amending Rule 2006*, as if that Rule had been in operation when the thing was done or omitted to be done.

### **11.6.7 References to the old Chapter 6**

Unless the context otherwise requires, on and from the commencement date every reference to the old Chapter 6 in a document (however described) is deemed to be a reference to the renumbered Chapter 6 or the new Chapter 6A (as the case may be).

### 11.6.8 References to provisions of the old Chapter 6

Unless the context otherwise requires, on and from the commencement date every reference to a provision of the old Chapter 6 in a document (however described) is deemed to be a reference to the corresponding provision of the renumbered Chapter 6 or the corresponding provision (if any) of the new Chapter 6A (as the case may be).

### 11.6.9 Roll forward of regulatory asset base for first regulatory control period

In making a *revenue determination* for the first *regulatory control period*, the value of the regulatory asset base at the beginning of the first *regulatory year* of that period calculated in accordance with clause S6A.2.1(f), may be adjusted having regard to an existing revenue determination and any other arrangements agreed between the AER and the *Transmission Network Service Provider*.

### 11.6.10 Other adjustment carry-over mechanisms from current to first regulatory control period

The *maximum allowed revenue* that a *Transmission Network Service Provider* may earn in any *regulatory year* of the first *regulatory control period* may be adjusted for any carry-over mechanisms provided for in the relevant existing revenue determination and in any other arrangements agreed between the AER and the *Transmission Network Service Provider* for the purposes of, and in accordance with, the existing revenue determination.

### 11.6.11 Clause consequent upon making National Electricity Amendment (Cost Allocation Arrangements for Transmission Services) Rule No 2009 No 3 - Transition to new Chapter 6A: existing prescribed connection services

#### Definitions

(a) In this clause 11.6.11:

**existing asset** means an asset that as at 9 February 2006:

- (1) was used in connection with a *transmission system* where the value, or a portion of the value, of that asset was included in the regulatory asset base; or
- (2) was committed to be constructed for use in connection with a *transmission system* where the forecast value, or a portion of the forecast value, of that asset was included in the forecast capital expenditure,

for that *transmission system* under a revenue determination in force as at 9 February 2006.

For the purpose of this definition, an asset is, and is only, to be taken to be committed to be constructed if it satisfied the criteria which a project needed

to satisfy to be a “committed project” for the purpose of the *regulatory test* in force as at 9 February 2006.

**replacement asset** means:

- (1) an asset which replaces an existing asset after 9 February 2006; or
- (2) an asset which replaces an asset referred to in this clause 11.6.11(a) after 9 February 2006.

For the purpose of this definition, an asset will be treated as replacing another asset even if it provides an increased or different functionality to the asset it replaces, provided that the increased or different functionality was not requested by the relevant *Transmission Network User*.

**eligible asset** means, subject to clause 11.6.11(d)(3):

- (1) an existing asset which was, immediately before the commencement date, or was or is, when first commissioned after the commencement date, wholly and exclusively used by a *Transmission Network Service Provider* to provide *connection services* to a *Transmission Network User* or a group of *Transmission Network Users* at a *transmission network connection point*; and
- (2) a replacement asset which is wholly and exclusively used after the commencement date by a *Transmission Network Service Provider* to continue providing *connection services* to a *Transmission Network User* or a group of *Transmission Network Users* at a *transmission network connection point*,

and excludes:

- (3) an existing asset or a replacement asset to the extent that it ceases to be used after the commencement date to provide *connection services* to a *Transmission Network User* or a group of *Transmission Network Users* at a *transmission network connection point*; and
- (4) an existing asset or replacement asset that, as at the 2009 commencement date, was wholly and exclusively used by a *Transmission Network Service Provider* to provide connection services to a *Transmission Network User* or a group of *Transmission Network Users* at a *transmission network connection point* but had all of its costs treated as directly attributable to, or incurred in providing, *transmission use of system services* at that date.

**prescribed connection service** means a *connection service* provided by a *Transmission Network Service Provider* to a *Transmission Network User* at a *transmission network connection point* on or after the 2009 commencement date in respect of which the following criteria are satisfied:

- (1) the relevant service is provided by using assets that include eligible assets;

- (2) the whole of the relevant service is being provided under a *connection agreement* which was first entered into before the commencement date (as extended, amended or novated from time to time);
- (3) the *connection agreement* has not at any time after the 2009 commencement date been amended at the request of the *Transmission Network User* for the purposes of altering the relevant service; and
- (4) the relevant service would not otherwise be a *prescribed transmission service* for the purposes of new Chapter 6A but for this clause 11.6.11.

If, at the date a *Transmission Network Service Provider* submits a *Revenue Proposal* after the 2009 commencement date to the *AER* under new Chapter 6A, a *connection service* does not satisfy each of the above criteria, then the *connection service* remains a prescribed connection service until the start of the next *regulatory control period* to which the *Revenue Proposal* relates, from which time it ceases to be a prescribed connection service.

**2009 commencement date** means the date on which the National Electricity Amendment (Cost Allocation Arrangements for Transmission Services) Rule 2009 commences operation.

#### **Prescribed transmission services**

- (b) References to *prescribed transmission services* in new Chapter 6A include prescribed connection services and, where a service is a *prescribed transmission service* by virtue of the operation of this clause 11.6.11, that service is taken not to be a *negotiated transmission service*.

#### **Interaction with new Chapter 6A**

- (c) For the purposes of new Chapter 6A:
  - (1) the costs of the *transmission system* assets that from time to time may be treated as:
    - (i) directly attributable to the provision of a prescribed connection service; or
    - (ii) incurred in providing a prescribed connection service, to a *Transmission Network User* or a group of *Transmission Network Users* at a *transmission network connection point* are limited to the costs of the eligible assets which, from time to time, provide that prescribed connection service;
  - (2) any costs of an existing asset or a replacement asset (or of any portion of an existing asset or a replacement asset) that:
    - (i) is not an eligible asset (other than as a result of clause 11.6.11(d)); and

- (ii) is used by a *Transmission Network Service Provider* to provide *connection services* to a *Transmission Network User* or a group of *Transmission Network Users* at a *transmission network connection point*,

must be treated as costs that are directly attributable to the provision of, or are incurred in providing, *prescribed TUOS services* and, to avoid doubt, the services provided by those assets which would otherwise be *connection services* are taken to be *prescribed TUOS services*; and

- (3) the *stand-alone amount* for *prescribed TUOS services* is taken to include any portion of the costs referred to in clause 11.6.11(c)(2) that has not been allocated under clause 6A.23.2(d)(1).

### **Cessation of prescribed connection services**

- (d) If a *connection service* ceases to be a prescribed connection service at the start of a *regulatory control period* for the relevant *Transmission Network Service Provider*:
  - (1) the *connection service* is taken to be a *negotiated transmission service*;
  - (2) despite clause 6A.19.2(7), the costs which were allocated to the prescribed connection service may be reallocated to *negotiated transmission services*;
  - (3) the eligible assets that previously provided the prescribed connection service cease to be eligible assets; and
  - (4) despite clause S6A.2.3, the value of the eligible assets which previously provided the prescribed connection service may be removed from the regulatory asset base of the *Transmission Network Service Provider*.

## **11.6.12 Powerlink transitional provisions**

### **Definitions**

- (a) In this clause 11.6.12:

**contingent project** means a project identified in the transitional revenue determination as a contingent project.

**Powerlink** means the Queensland Electricity Transmission Corporation Limited (ACN 078 849 233), trading as Powerlink Queensland.

**transitional regulatory control period** means the regulatory control period commencing on 1 July 2007 and ending on 30 June 2012.

**transitional revenue determination** means a final revenue determination by the *AER* for the Powerlink transmission network, in respect of the transitional regulatory control period.

**trigger** means the unique investment driver identified in the transitional revenue determination as a trigger for a contingent project.

### Scope and application

- (b) This clause 11.6.12:
  - (1) applies only in respect of the Powerlink *transmission network* and applies only until 30 June 2012; and
  - (2) prevails, to the extent of any inconsistency, over any other clause in the *Rules*.

### Transitional revenue determination

- (c) Except as provided in this clause 11.6.12, and despite any changes to the old Chapter 6:
  - (1) the old Chapter 6 continues to apply in respect of the *AER* setting the revenue cap for the transitional regulatory control period for the Powerlink *transmission network*; and
  - (2) in setting the revenue cap for the transitional regulatory control period, the *AER* must substantially adhere to the Statement of Regulatory Principles including the ex ante approach to setting the revenue cap set out in the statement.
- (d) The *AER* must calculate the *weighted average cost of capital* for the transitional regulatory control period, in accordance with the values, methodologies or benchmarks in the new Chapter 6A, in respect of the following items:
  - (1) the nominal risk free rate including the maturity period and source of the benchmark;
  - (2) the debt risk premium including the maturity period and source of the benchmark;
  - (3) the equity beta;
  - (4) the market risk premium; and
  - (5) the ratio of the market value of debt as a proportion of the market value of equity and debt.
- (e) In calculating the WACC for the transitional regulatory control period, the *AER* must use an average gamma of 0.5.

### Contingent projects

- (f) Where the trigger event identified in respect of a contingent project occurs prior to 30 June 2012, the *AER* must, in accordance with the transitional revenue determination:
  - (1) determine:
    - (i) the amount of capital and incremental operating expenditure for that contingent project for each remaining regulatory year of the transitional regulatory control period, which the *AER* considers is reasonably required for the purpose of undertaking the contingent project;
    - (ii) the likely commencement and completion dates for the contingent project;
    - (iii) the incremental revenue which is likely to be earned by Powerlink in each remaining regulatory year of the transitional regulatory control period as a result of the contingent project being undertaken; and
    - (iv) the *maximum allowed revenue* for each regulatory year in the remainder of the transitional regulatory control period by adding the incremental revenue for that regulatory year; and
  - (2) calculate the estimate referred to in subparagraph (1)(iii):
    - (i) on the basis of the rate of return for Powerlink for the transitional regulatory control period in accordance with the transitional revenue determination; and
    - (ii) consistently with the manner in which depreciation is calculated under the transitional revenue determination; and
  - (3) amend the transitional revenue determination to apply for the remainder of the transitional regulatory control period in accordance with paragraph (g).
- (g) The *AER* may only vary the transitional revenue determination to the extent necessary:
  - (1) to adjust the forecast capital expenditure for the transitional regulatory control period to accommodate the amount of additional capital expenditure determined under paragraph (f)(1)(i);
  - (2) to adjust the forecast operating expenditure for the current regulatory control period to accommodate the amount of additional operating expenditure determined under paragraph (f)(1)(i); and
  - (3) to reflect the effect of any resultant increase in forecast capital expenditure and incremental operating expenditure on the maximum

allowed revenue for each regulatory year in the remainder of the transitional regulatory control period.

- (h) An application for approval of a contingent project may only be made if the intended date for commencing the contingent project is during the transitional regulatory control period.
- (i) For the first *regulatory control period* after the transitional regulatory control period, the forecast of capital expenditure for that first *regulatory control period* must be determined by applying the provisions of clause 6A.6.7 of the new Chapter 6A, in respect of the capital expenditure for a contingent project, with such modifications as are necessary to properly apply clause 6A.6.7.

### **Cost pass-through**

- (j) For the duration of the transitional regulatory control period:
  - (1) subject to subparagraph (2), clause 6A.7.2 of the new Chapter 6A applies to a *network support event* under the transitional revenue determination;
  - (2) the process to apply to the calculation, presentation and approval of pass through resulting from a network support event is as set out in the transitional revenue determination; and
  - (3) in respect of any *positive change event* or *negative change event*, the new Chapter 6A applies, with any modifications that are necessary to apply the relevant provisions to the transitional revenue determination.

### **Roll forward of regulatory asset base**

- (k) For the avoidance of doubt, in making a *revenue determination* for the first *regulatory control period* after the transitional regulatory control period, the value of the regulatory asset base at the beginning of the first *regulatory year* of that period calculated in accordance with clause S6A.2.1(f), may be adjusted having regard to the transitional revenue determination and any other arrangements agreed between the AER and Powerlink.

### **Application of efficiency benefit sharing scheme**

- (l) The *efficiency benefit sharing scheme* in force under clause 6A.6.5 applies to Powerlink during the transitional regulatory control period.

### **Power to re-open transitional revenue determination**

- (m) Clause 6A.7.1 applies to the transitional revenue determination, and a reference in the clause to:
  - (1) *revenue determination* is taken to be a reference to the transitional revenue determination;



- (2) **regulatory control period** is taken to be a reference to the transitional regulatory control period;
  - (3) **contingent project** has the meaning referred to in paragraph (a); and
  - (4) **X Factor** has the same meaning as in the transitional revenue determination.
- (n) Subject to rule 11.8, old Part C (including Schedules 6.2, 6.3, 6.4, 6.7 and 6.8 of old Chapter 6) continues to apply for the duration of the transitional regulatory control period

#### 11.6.13 ElectraNet easements transitional provisions

- (a) In this clause 11.6.13:

**current regulatory control period** means the regulatory control period for ElectraNet commencing on 1 January 2003 and ending on 30 June 2008.

**Determination** means the South Australian Transmission Network Revenue Cap Decision of the ACCC dated 11 December 2002.

**easement** means easements referred to in the Determination.

- (b) Without limiting the operation of the new Chapter 6A, in establishing the opening regulatory asset base for ElectraNet for the regulatory control period subsequent to ElectraNet's current regulatory control period, the AER may also consider adjustments to the regulatory asset base for ElectraNet that relate to easements, as agreed by letter dated 3 August 2004, between the ACCC and ElectraNet.

#### 11.6.14 TransGrid contingent projects

- (a) In this clause 11.6.14:

**contingent project** means a project identified in the Determination as a contingent project.

**current regulatory control period** means the period 1 July 2004 to 30 June 2009.

**Determination** means the "Final Decision, NSW and ACT Transmission Network Revenue Cap TransGrid 2004-05 to 2008-09" dated 27 April 2005 determined by the ACCC pursuant to clause 6.2.4(b) of the National Electricity Code.

**TransGrid** means the energy services corporation constituted under section 6A of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 1A of Schedule 1 to that Act.

- (b) For the purposes of the application of clause 11.6.2(a) to the Determination, a reference to the old Chapter 6 is a reference to the old Chapter 6 as modified by rule 8A.1.
- (c) For the first *regulatory control period* after the current regulatory control period, the forecast of capital expenditure for TransGrid for that first *regulatory control period* must be determined by applying the provisions of clause 6A.6.7 in respect of the capital expenditure for a contingent project, with such modifications as are necessary to properly apply clause 6A.6.7.

#### **11.6.15 Transmission determination includes existing revenue determinations**

The definition of a *transmission determination* may, where the context so requires, include a determination (or substituted determination) made, or deemed to be made, by the *AER* or the *ACCC* prior to the commencement date.

#### **11.6.16 References to regulatory control period**

A reference to a *regulatory control period* may, where the context so requires, include a period during which a revenue cap applied by virtue of a determination (or substituted determination) made, or deemed to be made, by the *AER* or the *ACCC* prior to the commencement date.

#### **11.6.17 Consultation procedure for first proposed guidelines**

- (a) In this clause 11.6.17:

**guideline** means:

- (1) the *post-tax revenue model* referred to in rule 6A.5.2;
  - (2) the *roll forward model* referred to in rule 6A.6.1;
  - (3) an *efficiency benefit sharing scheme* referred to in rule 6A.6.5;
  - (4) a *service target performance incentive scheme* referred to in rule 6A.7.4;
  - (5) submission guidelines referred to in rule 6A.10.2; and
  - (6) *Cost Allocation Guidelines* referred to in rule 6A.19.3.
- (b) The *AER* must develop and *publish* the first proposed guidelines on or before 31 January 2007, and may carry out consultation in the preparation of those proposed guidelines as the *AER* considers appropriate.
  - (c) Each proposed guideline must be *published* in accordance with the requirements of rule 6A.20(b), including an explanatory statement and an invitation for written submissions.

- (d) The invitation for written submissions for the proposed guidelines must allow no less than 60 *business days* for the making of submissions.
- (e) The *AER* may *publish* papers and hold conferences or information sessions in relation to the proposed guidelines as provided by rule 6A.20(d).
- (f) Rule 6A.20(e)-(f) applies to the publication of the final decision of the *AER* in relation to the first guidelines, which must be published under rule 6A.20 on or before 30 September 2007.

#### **11.6.18 Reliance on proposed guidelines for SP AusNet, VENCORP and ElectraNet**

- (a) In this clause 11.6.18:

**guideline** has the same meaning as in clause 11.6.17.

**proposed guideline** means a proposed guideline published under clause 11.6.17.

**relevant provider** means SP AusNet, VENCORP or ElectraNet.

**2008 determination** means a transmission determination to be made in 2008 for a relevant provider.

- (b) For the purposes of making a 2008 determination for the regulatory control period to be covered by a 2008 determination, anything that must be done in accordance with a guideline must instead be done in accordance with the corresponding proposed guideline.
- (c) Unless sooner revoked, a proposed guideline ceases to have effect in relation to a relevant provider at the end of the regulatory control period covered by a 2008 determination applying to the provider. For the avoidance of doubt, a proposed guideline does not apply to or in respect of the making of a subsequent transmission determination.
- (d) For the purposes of making a 2008 determination for the regulatory control period to be covered by a 2008 determination, a relevant provider is taken to have complied with a requirement to comply with a *Cost Allocation Methodology* under the new Chapter 6A if the *AER* is satisfied that the relevant provider has complied with the relevant proposed guideline for cost allocation referred to in clause 11.6.17(a)(6), but only until the *AER* has approved a *Cost Allocation Methodology* for that provider under clause 6A.19.4.

#### **11.6.19 EnergyAustralia transitional provisions**

- (a) In this clause 11.6.19:

**contingent project** means a project approved by the *ACCC* and identified in the Determination as a contingent project.

**current regulatory control period** means the period 1 July 2004 to 30 June 2009.

**Determination** means the “Final Decision, NSW and ACT Transmission Network Revenue Cap EnergyAustralia 2004-05 to 2008-09”.

**EnergyAustralia** means the energy services corporation constituted under section 7 of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 2 of Schedule 1 to that Act.

**maximum allowed revenue** means the maximum allowed revenue in the Determination.

**trigger event** means an event identified as a trigger in Appendix A of the Determination in respect of a contingent project.

**triggered contingent project** means the contingent project referred to in Appendix A of the Determination as “A.1 Replacement of Feeders 908/909”.

#### **Application of Chapter 6A to Determination**

- (b) Subject to paragraph (c), clauses 6A.7.1, 6A.7.2 and 6A.7.3 apply to the Determination from the commencement date.
- (c) In applying clause 6A.7.1 to the Determination, a reference in the clause to:
  - (1) **revenue determination** is taken to be a reference to the Determination;
  - (2) **regulatory control period** is taken to be a reference to the current regulatory control period;
  - (3) **contingent project** has the meaning referred to in paragraph (a); and
  - (4) **X Factor** has the same meaning as in the Determination.

#### **Treatment of contingent projects**

- (d) Where the trigger event identified in respect of a contingent project occurs prior to 1 July 2009, the AER must, in accordance with the Determination:
  - (1) determine:
    - (i) the total capital expenditure which the AER considers is reasonably required for the purpose of undertaking the *contingent project* including any amount for forecast capital expenditure already included in the Determination in respect of the triggered contingent project;
    - (ii) the forecast capital and incremental operating expenditure for that contingent project (in addition to any amount for forecast capital expenditure already included in the Determination in

- respect of the triggered contingent project) for each remaining regulatory year of the current regulatory control period, which the *AER* considers is reasonably required for the purpose of undertaking the contingent project in accordance with Appendix A of the Determination;
- (iii) the likely commencement and completion dates for the contingent project;
  - (iv) the incremental revenue which is likely to be earned by EnergyAustralia in each remaining regulatory year of the current regulatory control period as a result of the contingent project being undertaken; and
  - (v) the maximum allowed revenue for each regulatory year in the remainder of the current regulatory control period by adding the incremental revenue for that regulatory year;
- (2) calculate the estimate referred to in subparagraph (1)(iv) in accordance with the Determination, including:
- (i) on the basis of the rate of return for EnergyAustralia for the current regulatory control period; and
  - (ii) consistently with the manner in which depreciation is calculated under the Determination; and
- (3) vary the Determination to apply for the remainder of the current regulatory control period in accordance with paragraph (e).
- (e) The *AER* may only vary the Determination to the extent necessary:
- (1) to adjust the forecast capital expenditure for the current regulatory control period to accommodate the amount of additional capital expenditure determined under paragraph (d)(1)(ii); and
  - (2) to adjust the forecast operating expenditure for the current regulatory control period to accommodate the amount of additional operating expenditure determined under paragraph (d)(1)(ii); and
  - (3) to reflect the effect of any resultant increase in forecast capital expenditure and incremental operating expenditure on the maximum allowed revenue for each regulatory year in the remainder of the current regulatory control period.
- (f) The intended date for commencing the contingent project must be during the current regulatory control period.
- (g) For the first *regulatory control period* after the current regulatory control period, the forecast of capital expenditure for EnergyAustralia for that first *regulatory control period* must be determined by applying the provisions of

clause 6A.6.7 in respect of the capital expenditure for a contingent project, with such modifications as are necessary to properly apply clause 6A.6.7.

## 11.6.20 Basslink transitional provisions

### Definitions

(a) In this clause 11.6.20:

**Basslink** has the meaning provided in the *Electricity Supply Industry Act 1995* of Tasmania, and means the interconnection between the electricity grids of the States of Tasmania and Victoria by means of:

- (1) a high voltage, direct current, submarine cable across Bass Strait;
- (2) converter stations in those States;
- (3) direct current connecting lines to those converter stations;
- (4) alternating current transmission connections to the transmission networks of those States; and
- (5) related infrastructure.

**previous regulatory approach** means the methodologies, objectives and principles for determination of a regulatory asset base applied in the previous regulatory determinations.

**previous regulatory determinations** means the decision (including the reasons for decision) made under clause 2.5.2(c) of the National Electricity Code or clause 2.5.2(c) of the *Rules* (as the case may be):

- (1) by the ACCC, entitled the “Murraylink Transmission Company Application for Conversion and Maximum Allowable Revenue” dated 1 October 2003; and
- (2) by the AER, entitled “Directlink Joint Ventures’ Application for Conversion and Revenue Cap” dated 3 March 2006.

### Application

- (b) Where, after the commencement date, a service provided by means of, or in connection with, the Basslink *transmission system* ceases to be classified as a *market network service*:
- (1) paragraph (c) applies to that service to the exclusion of clause 2.5.2(c); and
  - (2) paragraphs (d),(e),(f) and (g) apply to that service to the exclusion of clause S6A.2.1(e)(1) and (2).
- (c) If, after the commencement date, a *network service* provided by means of, or in connection with, the Basslink *transmission system* ceases to be

classified as a *market network service*, it may at the discretion of the *AER* be determined to be a *prescribed transmission service*, in which case the relevant *total revenue cap* may be adjusted in accordance with Chapter 6A and this clause 11.6.20 to include to an appropriate extent the relevant *network* elements which provide those *network services*.

- (d) Where services are determined to be *prescribed transmission services* as referred to in paragraph (c), the value of the regulatory asset base, as at the beginning of the first *regulatory year* of the first *regulatory control period* for which those *prescribed transmission services* are to be regulated under a *revenue determination*, is the amount that is determined by the *AER* in accordance with paragraphs (e), (f) and (g).
- (e) Subject to paragraph (f), the *AER* must determine the value of the regulatory asset base for the Basslink *transmission system* for the purposes of paragraph (d) by applying the previous regulatory approach to the circumstances of that *transmission system*.
- (f) In the event of an inconsistency between the previous regulatory approach adopted in each of the previous regulatory determinations, the approach adopted in a decision of the *AER* regarding the Directlink *transmission system* prevails over the approach adopted in the decision of the *ACCC* regarding the Murraylink *transmission system* to the extent of the inconsistency.
- (g) Without limiting paragraph (e), the *AER* must, when exercising any discretion in relation to the application of paragraph (e) above:
  - (1) have regard to the prudent and efficient value of the assets that are used by the relevant *Transmission Network Service Provider* to provide those *prescribed transmission services* (but only to the extent that those assets are used to provide such services); and
  - (2) for this purpose, determine that value having regard to the matters referred to in clause S6A.2.2.

## 11.6.21 SPI Powernet savings and transitional provision

### Definitions

- (a) In this clause 11.6.21:

**easements tax change event** means a *change* in the amount of land *tax* that is payable by SPI PowerNet in respect of the easements which are used for the purposes of SPI PowerNet's *transmission network*. For the purposes of this definition, the *change* in the amount of land tax that is payable by SPI PowerNet must be calculated as the difference between:

- (1) the amount of land tax that is payable in each *regulatory year* by SPI PowerNet, as advised by the Commissioner of State Revenue, Victoria; and

- (2) the amount of land tax which is forecast for the purposes of and included in the *revenue determination* for each *regulatory year* of the *regulatory control period*.

**Regulated owner** and **SPI PowerNet** both have the meaning provided in clause 9.3.1(2) of the *Rules*.

**Transition to new Chapter 6A: existing prescribed transmission services**

- (b) Notwithstanding clause 11.5.11, references to *prescribed transmission services* in the new Chapter 6A include a service provided by an asset used in connection with, or committed to be constructed for use in connection with, a *transmission system* as at 9 February 2006, where that asset is the subject of an agreement between SPI PowerNet and any of:
  - (1) VENCORP;
  - (2) a Distributor;
  - (3) a Regulated owner;
  - (4) a *Generator*; or
  - (5) a *Market Network Service Provider*,and:
  - (6) the agreement provides or contemplates that following an interim period the relevant asset will become subject to regulation under a revenue determination applicable to SPI PowerNet; and
  - (7) in the case of an agreement with a *Generator* or a *Market Network Service Provider*, the service the subject of the agreement is for *connection assets* provided on a non-contestable basis.

**Method of adjustment of value of regulatory asset base**

- (c) For the avoidance of doubt, in adjusting the previous value of the regulatory asset base for SPI PowerNet's *transmission system* as required by clause S6A.2.1(f), the previous value of the regulatory asset base must be increased by the amount of capital expenditure specified in, or that forms the basis of, agreements pursuant to which SPI PowerNet constructed assets during the previous regulatory control period used to provide *prescribed transmission services*, adjusted for outturn inflation and depreciation in accordance with the terms of those agreements.
- (d) For the purposes of a *revenue determination* for SPI PowerNet (including but not limited to, a 2008 determination as defined in clause 11.6.18(a)) and clause 6A.7.3, easements tax change event is deemed to be:
  - (1) a *pass through event*; and



- (2) a *positive change event* or *negative change event*, as the case may be, whether or not the easements tax change event would be *material* for the purposes of those definitions.

#### 11.6.22 Interim arrangements pricing-related information

- (a) Clause 6.2.5(a1) as in force immediately before the commencement date continues to apply during the current regulatory control period.
- (b) The *information guidelines* may, in addition to the matter referred to in clause 6A.17.2(e), require the inclusion in the certified annual statements of:
  - (1) information on the amount of each instance, during the relevant reporting period, of any reduction in the prices payable by a *Transmission Customer* for *prescribed transmission services* provided by the *Transmission Network Service Provider*;
  - (2) information on each instance, during the relevant reporting period, of a reduction in the prices payable by a *Transmission Customer* for *prescribed transmission use of system services* or *prescribed common transmission services* (or both) that were recovered from other *Transmission Customers* for *prescribed transmission use of system services* or *prescribed common transmission services*; and
  - (3) information to substantiate any claim by the *Transmission Network Service Provider* that the information provided to the AER with respect to reductions in the prices payable by a *Transmission Customer* for the relevant *prescribed transmission services* under subparagraphs (2) or (3) is confidential information.

### Part F Reform of Regulatory Test Principles (2006 amendments)

#### 11.7 Rules consequent on making of the National Electricity Amendment (Reform of the Regulatory Test Principles) Rule 2006

##### 11.7.1 Definitions

For the purposes of this rule 11.7:

**Amending Rule** means the *National Electricity Amendment (Reform of the Regulatory Test Principles) Rule 2006 No.19*.

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

**current application** means any action taken or process commenced under the *Rules*, which relies on or is referenced to, the *regulatory test*, and is not completed as at the commencement date.

**new clause 5.6.5A** means clause 5.6.5A of the *Rules* as in force immediately after the commencement of the Amending Rule.

**old clause 5.6.5A** means clause 5.6.5A of the *Rules* as in force immediately before the commencement of the Amending Rule.

**transitional application** means any action taken or process commenced under the *Rules*, which relies on or is referenced to, the *regulatory test* and is not completed on 31 December 2007, or the date on which amendments (if any) to the *regulatory test* commence, whichever is the earlier.

#### 11.7.2 Amending Rule does not affect old clause 5.6.5A

- (a) On the commencement date, the *regulatory test* promulgated by the AER in accordance with the old clause 5.6.5A and in effect immediately before the commencement date, continues in effect and is taken to be consistent with the new clause 5.6.5A until 31 December 2007.
- (b) Old clause 5.6.5A, and the *regulatory test* promulgated under that clause 5.6.5A, continues to apply to and in respect of, any current application and any transitional application.

### Part G Pricing of Prescribed Transmission Services (2006 amendments)

#### 11.8 Rules consequent on making the National Electricity Amendment (Pricing of Prescribed Transmission Services) Rule 2006

##### 11.8.1 Definitions

Subject to this rule 11.8, in this rule 11.8:

**agreed interim requirements** means interim requirements that are equivalent to the requirements of the *pricing methodology guidelines* referred to in rule 6A.25 and have been developed in consultation with the relevant providers for the purposes of a proposed 2008 pricing methodology.

**ElectraNet** means ElectraNet Pty Ltd ACN 094 482 416 trading as ElectraNet.

**existing assets** means *transmission system* assets in existence as at 24 August 2006.

**previous regulatory determinations** means the decision (including the reasons for decision) made under clause 2.5.2(c) of the National Electricity Code or clause 2.5.2(c) of the *Rules* (as the case may be):

- (1) by the ACCC, entitled the “Murraylink Transmission Company Application for Conversion and Maximum Allowable Revenue” dated 1 October 2003; and

- (2) by the *AER*, entitled “Directlink Joint Ventures’ Application for Conversion and Revenue Cap” dated 3 March 2006.

**Pricing Rule commencement date** means the date on which the National Electricity Amendment (Pricing of Prescribed Transmission Services) Rule 2006 commences operation.

**relevant provider** means SPAusNet, ElectraNet or VENCorp.

**SPAusNet** means SPI PowerNet Pty Ltd ACN 079 798 173.

**2008 pricing methodology** means a pricing methodology to be made in 2008 for a relevant provider.

**VENCorp** means the Victorian Energy Networks Corporation established under the *Gas Industry Act 1994*(Vic) and continued under the *Gas Industry Act 2001*(Vic).

### 11.8.2 Regulated interconnectors

- (a) All *interconnectors* that formed part of the *power system* in the *participating jurisdictions* as at 31 December 1997 continue to be taken to be *regulated interconnectors*.
- (b) All *interconnectors* that ceased to be classified as a *market network service* by a previous regulatory determination made before 28 December 2006 are taken to be *regulated interconnectors*.
- (c) All *interconnectors* that, by a decision made after 28 December 2006 under clause 2.5.2(c) of the *Rules* cease to be classified as a *market network service* are taken to be *regulated interconnectors*.

### 11.8.3 Application of new Part J of Chapter 6A to Transmission Network Service Providers

- (a) Subject to this rule 11.8, a *Transmission Network Service Provider* is not required to submit a proposed *pricing methodology* to the *AER* under the new Part J of Chapter 6A until a date that is 13 months before the expiry of a current *regulatory control period*.
- (b) For the purposes of this clause 11.8.3, the transitional regulatory control period referred to in rule 11.6.12 (a) for Powerlink is taken to be the current *regulatory control period*.

### 11.8.4 Reliance on agreed interim guideline for ElectraNet, SPAusNet, and VenCorp

For the purpose of making a 2008 pricing methodology, anything that must be done in accordance with the *pricing methodology guidelines* must instead be done in accordance with the agreed interim requirements.

### **11.8.5 Prudent discounts under existing agreements**

- (a) A *Transmission Network Service Provider* may continue to recover discounts arising as a result of agreements that were entered into prior to 10 October 2001 so long as the agreement remains in effect and its terms are not renegotiated.
- (b) A *Transmission Network Service Provider* may continue to recover discounts arising as a result of agreements that were entered into prior to 28 December 2006 so long as the agreement remains in effect and its terms are not renegotiated.
- (c) The *AER* is not required to re-approve discounts arising under paragraphs (a) or (b) that were approved prior to 28 December 2006, and any approval for the recovery of such discounts is valid so long as the agreement between the *Transmission Network Service Provider* and the *Transmission Customer* remains in effect and its terms are not renegotiated.

### **11.8.6 Application of prudent discounts regime under rule 6A.26**

- (a) Despite clause 11.6.3, a *Transmission Network Service Provider* may apply rule 6A.26 during a current regulatory control period (as defined in clause 11.6.1).
- (b) Where a *Transmission Network Service Provider* applies to the *AER* under clause 6A.26.2 for approval to recover a proposed recovery amount in circumstances where paragraph (a) applies, the *AER* must make a determination in accordance with clause 6A.26.2 notwithstanding that there is no approved *pricing methodology* for that provider.

### **11.8.7 Prudent discounts pending approval of pricing methodology**

- (a) This clause 11.8.7 applies where:
  - (1) a *Transmission Network Service Provider* has submitted or resubmitted a proposed *pricing methodology* to the *AER* under clause 6A.10.1, 6A.11.2 or 6A.12.3;
  - (2) the *AER* has not made a final decision approving or amending that methodology under rule 6A.13; and
  - (3) a *Transmission Customer* requests the provider to charge lower prices for *prescribed TUOS services* or *prescribed common transmission services* than the prices determined in accordance with the provider's *pricing methodology* as referred to in clause 6A.26.1(d).
- (b) Despite clause 6A.26.1, a *Transmission Network Service Provider* may agree to charge lower prices for *prescribed TUOS services* or *prescribed common transmission services* than the prices determined as referred to in clause 6A.26.1(d) in accordance with:

- (1) in the case where the *AER* has made a draft decision in which it proposes to approve a proposed *pricing methodology*, - that proposed *pricing methodology*; or
  - (2) if subparagraph (1) does not apply, the *pricing methodology* most recently approved for that *Transmission Network Service Provider* prior to the proposed *pricing methodology* referred to in subparagraph (a)(1); or
  - (3) if there is no a previously approved *pricing methodology* for that *Transmission Network Service Provider*, - the previous method used by the *Transmission Network Service Provider* to establish prices, however determined must be used in place of an approved *pricing methodology*.
- (c) Where a *Transmission Network Service Provider* applies to the *AER* under clause 6A.26.2 for approval to recover a proposed recovery amount in circumstances where paragraphs (a) and (b) apply, the *AER* must make a determination in accordance with clause 6A.26.2 notwithstanding that the reduced charges were agreed before a *pricing methodology* was approved.
- (d) The subsequent approval by the *AER* of a *pricing methodology* for a *Transmission Network Service Provider* does not require the provider to adjust, reverse or recompense any amounts to *Transmission Customers* in connection with charges for services established pursuant to this clause 11.8.7.

## Part H Reallocations (2007 amendments)

### 11.9 Rules consequent on the making of the National Electricity Amendment (Reallocations) Rule 2007

#### 11.9.1 Definitions

For the purposes of this rule 11.9:

**Amending Rule** means the *National Electricity Amendment (Reallocations) Rule 2007*.

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

**existing reallocation** means a *reallocation* in place immediately before the commencement date.

**new reallocation** means a *reallocation* undertaken in accordance with the *Rules* after the date of *publication* of the *reallocation procedures* under clause 3.15.11A(d).

**transitional reallocation** means a *reallocation* in place immediately after the commencement date but prior to the date of *publication* of the *reallocation procedures* by NEMMCO under clause 3.15.11A(d).

### 11.9.2 Existing and transitional reallocations

- (a) Subject to paragraph (c), an existing reallocation is to be treated as if the Amending Rule had not been made.
- (b) Subject to paragraph (c), a transitional reallocation is to be treated as if the Amending Rule had not been made.
- (c) A *Market Participant* who is a party to an existing reallocation or a transitional reallocation may elect to have the reallocation treated as a new reallocation if the participant obtains the agreement of the *Market Participant* who is the other party to the reallocation.

## Part I Technical Standards for Wind Generation (2007 amendments)

### 11.10 Rules consequent on making of the National Electricity Amendment (Technical Standards for Wind Generation and other Generator Connections) Rule 2007

#### 11.10.1 Definitions

Subject to this rule 11.10, in this rule 11.10:

**Amending Rule** means the *National Electricity Amendment (Technical Standards for Wind Generation and other Generator Connections) Rule 2007*.

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

**new Chapter 5** means Chapter 5 of the *Rules* in force immediately after the commencement date.

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

#### 11.10.2 Provision of information under S5.2.4 in registration application

- (a) Any requirements in the Amending Rule that require a person who is applying to be a *Registered Participant* to submit information in relation to clause S5.2.4 for the purposes of clause 2.9.2 does not apply to any person who has, in accordance with clause 2.9.1:
  - (1) submitted an application to be registered as a *Registered Participant*;
  - (2) commenced a process for submitting further information in relation to the application referred to in subparagraph (1); or

- (3) has submitted further information in relation to the application referred to in subparagraph (1),

and, at the commencement date, has not been registered by *NEMMCO* in accordance with clause 2.9.2 as a *Registered Participant*.

- (b) A person registered in accordance with this clause 11.10.2:

- (1) subject to subparagraph (2), is taken to be registered in accordance with the requirements of the *Rules* as amended by the Amending Rule; and

- (2) must submit all information required under clause S5.2.4 within six months of the commencement date.

### **11.10.3 Access standards made under the old Chapter 5**

- (a) Any *automatic access standard* or *negotiated access standard* that applied to a *generating unit* or *generating system* under the old Chapter 5 continues to apply to that system or unit as if the Amending Rule had not been made.
- (b) Unless a *Generator* and a *Network Service Provider* otherwise agree, a *negotiated access standard* that is the subject of a negotiating process as at the commencement date, is to be negotiated in accordance with the old Chapter 5, as if the Amending Rule had not been made.

### **11.10.4 Modifications to plant by Generators**

Unless the *Generator* and the relevant *Network Service Provider* otherwise agree, a *Generator* who at the commencement date has proposed to modify a *plant* and has commenced negotiations with a *Network Service Provider* under the old Chapter 5 is to continue the negotiating process in accordance with the old Chapter 5 as if the Amending Rule had not been made.

### **11.10.5 Technical Details to Support Application for Connection and Connection Agreement**

- (a) Subject to paragraphs (b) and (c), any decision or action taken by *NEMMCO* for the purpose of developing and *publishing* an initial *Generating System Design Data Sheet*, an initial *Generating System Setting Data Sheet* and initial *Generating System Model Guidelines* under clause S5.5.7 prior to the commencement date has continuing effect as if the decision had been made or the action had been taken under the Amending Rule.
- (b) Pending the final *publication* of the *Generating System Design Data Sheet* and the *Generating System Setting Data Sheet* under clause S5.5.7:
  - (1) schedule 5.5.1 of the *Rules* as in force immediately before the commencement date is taken to be the interim *Generating System Design Data Sheet*; and

- (2) schedule 5.5.2 of the *Rules* as in force immediately before the commencement date is taken to be the interim *Generating System Setting Data Sheet*.
- (c) The interim *Generating System Design Data Sheet* and interim *Generating System Setting Data Sheet* referred to in paragraph (b) continue in force until *NEMMCO publishes* the equivalent data sheet under S5.5.7 which must be no later than 29 February 2008.

#### **11.10.6 Transitional arrangements for establishment of performance standards**

For the purposes of the definition of performance requirement in clause 4.16.1, clauses S5.2.8 and S5.2.9 of the old Chapter 5 applies as if the Amending Rule had not been made.

#### **11.10.7 Jurisdictional Derogations for Queensland**

- (a) For the purposes of clause 9.37.12, clause S5.2.5.2(c) of the old Chapter 5 applies as if the Amending Rule had not been made.
- (b) For the purposes of clause 9.37.21, clause S5.2.5.13 of the old Chapter 5 applies as if the Amending Rule had not been made.

### **11.10A Rules consequent on the making of the National Electricity Amendment (Central Dispatch and Integration of Wind and Other Intermittent Generation) Rule 2008**

#### **11.10A.1 Definitions**

In this rule 11.10A:

**Amending Rule** means the *National Electricity Amendment (Central Dispatch and Integration of Wind and Other Intermittent Generation) Rule 2008*.

**classified generating unit** means a *non-scheduled generating unit* or *scheduled generating unit* immediately before the registration date that could be classified as a *semi-scheduled generating unit* immediately after the registration date.

**commencement date** means the date on which Schedule 2 of the Amending Rule commences operation.

**committed project** means a project that *NEMMCO* considers has been fully committed by the project proponent taking into account the following factors:

- (a) the project proponent's rights to land for the construction of the project;
- (b) whether contracts for the supply and construction of the project's major plant or equipment, including contract provisions for project cancellation payments, have been executed;



- (c) the status of all planning and construction approvals and licences necessary for the commencement of construction of the project, including completed and approved environmental impact statements;
- (d) the level of commitment to financing arrangements for the project; and
- (e) whether project construction has commenced or a firm date has been set for it to commence.

**initial ECM guidelines** has the meaning given in clause 11.10A.8.

**potential semi-scheduled generating unit** means a *generating unit* that, at the time of registration of that unit under Chapter 2, could have been classified as a *semi-scheduled generating unit* in accordance with clause 2.2.7 and:

- (a) is listed in “Table 4.22: Committed NEM Wind Farms” of the 2007 *statement of opportunities*; or
- (b) is considered by *NEMMCO* to be a committed project as at 1 January 2008,

and, for the avoidance of doubt, does not include a classified generating unit.

**registered generating unit** means a *generating unit* which has had its classification as a *semi-scheduled generating unit* approved by *NEMMCO* on or after the registration date and before the commencement date.

**registration date** means the date on which Schedule 1 of the Amending Rule commences operation.

#### 11.10A.2 Registration and reclassification of classified generating units

- (a) On and after the registration date, a *Non-Scheduled Generator* or *Scheduled Generator* with a classified generating unit will not be required to register as a *Semi-Scheduled Generator* and reclassify the classified generating unit as a *semi-scheduled generating unit*.
- (b) For a period of 2 years after the commencement date, a *Generator* who:
  - (1) as at the commencement date has classified generating units; and
  - (2) subsequently reclassifies those generating units as *semi-scheduled generating units*,

is not required to pay *Participant fees* in accordance with rule 2.11.

- (c) Classified generating units that are reclassified as *semi-scheduled generating units* after the registration date but prior to the commencement date are taken to be *non-scheduled generating units* or *scheduled generating units* (as the case may be) until the commencement date.

### 11.10A.3 Registered generating unit

- (a) Subject to paragraph (b) and clause 11.10A.4, until the commencement date, a registered generating unit is taken to be a *non-scheduled generating unit* for the purposes of the *Rules*.
- (b) A registered generating unit must meet the technical requirements for a *semi-scheduled generating unit* in schedule 5.2.
- (c) A registered generating unit that:
  - (1) prior to the registration date is classified as a *scheduled generating unit*; and
  - (2) on or after the registration date but prior to the commencement date is reclassified as a *semi-scheduled generating unit*,is taken to continue to be a *scheduled generating unit* until the commencement date.

### 11.10A.4 Classification of potential semi-scheduled generating unit

- (a) On and after the registration date, a person may apply to *NEMMCO* to classify a potential semi-scheduled generating unit as:
  - (1) a *scheduled generating unit* in accordance with clause 2.2.2; or
  - (2) a *non-scheduled generating unit* in accordance with clause 2.2.3.
- (b) *NEMMCO* must treat an application received under paragraph (a) as:
  - (1) in the case of an application referred to paragraph (a)(1), as an application to be classified as a *scheduled generating unit*; or
  - (2) in the case of an application referred to in paragraph (a)(2), as an application to be classified as a *non-scheduled generating unit*.
- (c) In assessing an application referred to in paragraph (a)(2), *NEMMCO* must approve the classification if *NEMMCO* is satisfied that the output of the *generating unit* is *intermittent* even where the *generating unit* does not meet the requirements of clause 2.2.3(b)(1) or (2).
- (d) If an application for classification of a potential semi-scheduled generating unit made under this clause 11.10A.4 is approved by *NEMMCO* in accordance with clause 2.2.2 or, subject to paragraph (c), clause 2.2.3, the relevant unit is taken to be a *scheduled generating unit* or *non-scheduled generating unit* (as the case may be) for the purposes of the *Rules*.

### 11.10A.5 Participant fees

Until *NEMMCO* determines a structure of *Participant fees* under rule 2.11 which provides for *Semi-Scheduled Generators*, references to *Scheduled Generators* in

*NEMMCO's "Structure of Participant Fees under rule 2.11 of the National Electricity Rules" publication dated 24 March 2006, will be taken to include Semi-Scheduled Generators.*

#### **11.10A.6 Timetable**

- (a) *NEMMCO* must amend the *timetable* in accordance with clause 3.4.3(b) to take into account the Amending Rule with those amendments to take effect from the commencement date.
- (b) All actions taken by *NEMMCO* prior to the commencement date in anticipation of the commencement date to amend the *timetable* as required under paragraph (a) are taken to satisfy the equivalent action required under clause 3.4.3(b).

#### **11.10A.7 Procedure for contribution factors for ancillary service transactions**

- (a) *NEMMCO* must amend the procedure prepared by *NEMMCO* under clause 3.15.6A(k) in accordance with clause 3.15.6A(m) to take into account the Amending Rule with those amendments to take effect from the commencement date.
- (b) All actions taken by *NEMMCO* prior to the commencement date in anticipation of the commencement date to amend the procedure prepared by *NEMMCO* under clause 3.15.6A(k) as required under paragraph (a) are taken to satisfy the equivalent action under clause 3.15.6A(m).

#### **11.10A.8 Guidelines for energy conversion model information**

- (a) Subject to paragraph (b), for the purposes of clause 2.2.7(d) *NEMMCO* must *publish* guidelines by no later than the registration date setting out the information to be contained in *energy conversion models* (the **initial ECM guidelines**).
- (b) The initial ECM guidelines do not need to be prepared in consultation with *Semi-Scheduled Generators*. *NEMMCO* must replace the initial ECM guidelines as soon as reasonably practicable with guidelines described in clause 2.2.7(d) which have been prepared in consultation with *Semi-Scheduled Generators* and such other person that *NEMMCO*, acting reasonably, considers appropriate.

## **Part J Cost Recovery of Localised Regulation Services (2007 amendments)**

### **11.11 Rules consequent on making of the National Electricity Amendment (Cost Recovery of Localised Regulation Services) Rule 2007**

#### **11.11.1 Definitions**

For the purposes of this rule 11.11:

**Amending Rule** means the *National Electricity Amendment (Cost Recovery of Localised Regulation Services) Rule 2007*.

**commencement date** means 1 January 2009.

#### **11.11.2 Action taken by NEMMCO for the purposes of Amending Rule**

- (a) Any action taken by *NEMMCO* prior to the commencement date for the purpose of amending the procedure prepared by *NEMMCO* under clause 3.15.6A(k) for the purpose of the Amending Rule is taken to have satisfied the equivalent action under the *Rules*.
- (b) Any action taken by *NEMMCO* prior to the commencement date to calculate the *local market ancillary service requirement* to include *regulation services* for the purposes of the Amending Rule is taken to have satisfied the equivalent action under the *Rules*.

#### **11.12 [Deleted]**

## **Part L Abolition of Snowy Region (2007 amendments)**

### **11.13 Rules consequent on making the National Electricity Amendment (Abolition of Snowy Region) Rule 2007**

#### **11.13.1 Definitions**

In this rule 11.13:

**Amending Rule 2007** means the *National Electricity Amendment (Abolition of Snowy Region) Rule 2007*.

**current Regions Publication** means the document published by *NEMMCO* entitled “List of Regional Boundaries and Marginal Loss Factors for the 2007/08 Financial Year”.

**Draft Determination date** means 25 January 2007.

**implementation period** means the period specified in clause 11.13.4.

**implementation plan** means the plan referred to in clause 11.13.5.

**implementation function** means a function referred to in clause 11.13.6.

**Loss Factors Publication** means the document *published* by NEMMCO from time to time under clauses 3.6.1(f) and 3.6.2(f1) which sets out *marginal loss factors*.

**modified regions** means the *regions* identified as the New South Wales *region* and the Victoria *region* in the current *Regions Publication*, modified as a result of the abolition of the Snowy *region* under the *Amending Rule 2007* taking effect.

**new regions** means the unmodified *regions* and the modified *regions*.

**New South Wales region, Snowy region and Victoria region** each have the same meaning as in clause 3.5.6.

**old regions** means the *regions* identified in the current *Regions Publication*.

**Rule commencement date** means the date on which the *Amending Rule 2007* commences operation.

**unmodified regions** means the *regions* known as the Queensland *region*, the South Australia *region* and the Tasmania *region* as identified in the current *Regions Publication*, the boundaries of which are not affected by the abolition of the Snowy *region* under the *Amending Rule 2007*.

### 11.13.2 Purpose of rule 11.13

The purpose of this rule 11.13 is to enable the efficient and effective implementation of a change of *region* boundaries as a result of the abolition of the Snowy *region* during the implementation period, prior to the start of the new *regions*, and to support a smooth transition from the old *regions* to the new *regions*.

### 11.13.3 Application of rule 11.13

This rule 11.13 applies despite any other provision of the *Rules* (including any guideline or procedure made under the *Rules*), and to the extent of any inconsistency, this rule 11.13 prevails during the implementation period.

### 11.13.4 Implementation period

- (a) The implementation period starts on the Rule commencement date and ends on 15 July 2008.
- (b) Any decision made or action taken by NEMMCO for the purpose of implementing the abolition of the Snowy *region* between the Draft Determination date and the Rule commencement date, has continuing effect as if the decision had been made or the action had been taken under the *Rules* as amended by the *Amending Rule 2007*.

### 11.13.5 Publishing of implementation plan by NEMMCO

- (a) *NEMMCO* must develop and *publish* by 15 September 2007 an implementation plan that identifies the key implementation steps to be taken during the implementation period, including the proposed exercise by *NEMMCO* of the implementation functions.
- (b) *NEMMCO* may, during the implementation period, amend the implementation plan as necessary, and must *publish* the amended plan.

### 11.13.6 NEMMCO implementation functions

- (a) Subject to this rule 11.13, *NEMMCO* has, during the implementation period, the following functions and powers (**'the implementation functions'**):
  - (1) the power to make a decision or take any action (including the power to refrain from making a decision or taking action) that is necessary or consequential to the implementation of the *Amending Rule* 2007; and
  - (2) the other functions and powers specified under this rule 11.13.
- (b) The exercise of the implementation functions by *NEMMCO* must be referable to and consistent with the implementation plan as *published*.

### 11.13.7 Software modifications to implement abolition of Snowy region

Despite clause 3.17.1 and subject to this clause 11.13.7, *NEMMCO*:

- (1) may, as an implementation function, alter, reconfigure, reprogram or otherwise modify or enhance any computer software required for the operation of the *market*; and
- (2) must, to the extent practicable, adhere to the procedures for change management under the document entitled "NEM Systems IT Procedure Manual: Change Management" and *NEMMCO* may make the changes under paragraph (1) without authorisation by the *AER* even if *NEMMCO* does not fully adhere to that document.

### 11.13.8 Allocation of transmission connection points as a result of abolition of Snowy region

Each *transmission network connection point* previously assigned to the Snowy region as at the Rule commencement date is allocated to the New South Wales region and the Victoria region as follows:

#### Loads

Location	Voltage kV	TNI code	Region
Khancoban	330	NKHN	Victoria

## Generation

Location	Voltage kV	Connection point ID	TNI code	Region
Jindabyne pump at Guthega	132	NGJP	NGJP	Victoria
Guthega	132	NGUT	NGUT	NSW
Guthega Ancillary Services 2	132	NGUT2	NGUT	NSW
Guthega	132	NGUT8	NGUT	NSW
Lower Tumut	330	NLTS	NLTS	NSW
Lower Tumut Ancillary Services 2 (pumps)	330	NLTS3	NLTS	NSW
Lower Tumut Ancillary Services 3	330	NLTS5	NLTS	NSW
Lower Tumut	330	NLTS8	NLTS	NSW
Murray Ancillary Services 1	330	NMUR11	NMUR	Victoria
Murray Ancillary Services 2	330	NMUR13	NMUR	Victoria
Murray Ancillary Services 3	330	NMUR5	NMUR	Victoria
Murray Ancillary Services 4	330	NMUR7	NMUR	Victoria
Murray	330	NMUR8	NMUR	Victoria
Murray Ancillary Services 5	330	NMUR9	NMUR	Victoria
Upper Tumut	330	NUTS	NUTS	NSW
Upper Tumut Ancillary Services 2	330	NUTS3	NUTS	NSW
Upper Tumut Ancillary Services 3	330	NUTS5	NUTS	NSW
Upper Tumut Ancillary	330	NUTS7	NUTS	NSW

Location	Voltage kV	Connection point ID	TNI code	Region
Services 4				
Upper Tumut	330	NUTS8	NUTS	NSW

### 11.13.9 Location of region boundaries

The location of the *region* boundary between the New South Wales *region* and the Victoria *region* as a result of the abolition of the Snowy *region* is as follows:

- (1) at Red Cliffs Terminal Station on the 0X1 Red Cliffs to Buronga 220 Transmission Line;
- (2) at Wodonga Terminal Station on the 060 Wodonga to Jindera 330 Transmission Line;
- (3) at Murray Switching Station on the 066 Murray to Lower Tumut 330 Transmission Line;
- (4) at Murray Switching Station on the 065 Murray to Upper Tumut 330 Transmission Line;
- (5) at the Guthega 132kV Switchyard 132kV Bus No 2-3 bus Section Disconnecter 4128.

### 11.13.10 2008/09 Regions Publication and Loss Factors Publication

- (a) *NEMMCO* must, as an implementation function, review and *publish* by 1 April 2008:
  - (1) the 2008/09 *Regions Publication*; and
  - (2) the 2008/09 Loss Factors Publication,

making any changes necessary in accordance with the *Amending Rule* 2007, including but not limited to the allocation of *transmission network connection points* under clause 11.13.8 and the location of *region* boundaries under clause 11.13.9.
- (b) In relation to the publications referred to in paragraph (a) (or subsequent annual *Regions Publications* or Loss Factors Publications), nothing prevents *NEMMCO*:
  - (1) amending those publications to implement:
    - (i) the *Amending Rule* 2007 or future *region* boundary changes under the *Rules*;
    - (ii) future physical changes to the *transmission network*; or



- (iii) changes in the configuration of *connection points* requested by *Registered Participants* for the purposes of participation in the *NEM*; or
- (2) publishing the annual *Regions Publication* and the Loss Factors Publication in a single document.

#### **11.13.11 Reserve margin calculations**

*NEMMCO* may, as an implementation function, determine estimates of the minimum reserve levels to be applied to the modified *regions* provided that the process used to determine the estimates is *published*.

#### **11.13.12 Re-calculation of network constraints and transmission loss factors**

- (a) A *Transmission Network Service Provider* must, to the extent practicable, provide to *NEMMCO* on request information for or with respect to the re-calculation of *network constraints* and *transmission loss factors* including but not limited to:
  - (1) advice on the re-calculation of *network* limits, including stability limits; and
  - (2) information relating to the determination of *network losses* and *loss factors*.
- (b) Where a *Transmission Network Service Provider* advises *NEMMCO* that it is not practicable to provide information relating to the re-calculation of *network* limits or losses within the time period specified in the request, *NEMMCO* may:
  - (1) request the *Transmission Network Service Provider* to provide the information to *NEMMCO* as it becomes available to the provider;
  - (2) determine *inter-regional loss factors* on the basis of estimates;
  - (3) apportion losses for the purpose of *settlements residue payments* using estimates; or
  - (4) re-formulate existing *network constraints* to apply to the new *regions* using estimates.
- (c) *NEMMCO* must *publish* the process used for determining estimates under paragraph (b).

#### **11.13.13 Transition of settlements residue auction arrangements**

- (a) Terms used in this clause 11.13.13 that are used in the *auction rules* have the same meaning as in those rules.
- (b) Despite anything in rule 3.18, *NEMMCO*:

- (1) may, as an implementation function:
  - (i) amend the *auction rules*;
  - (ii) remove or modify Unit Categories affected by the abolition of the Snowy *region* and the consequential modification of the New South Wales *region* and the Victoria *region*;
  - (iii) re-set *auction expense fees* as required to align with any new Unit Categories;
  - (iv) conduct *auctions* in relation to new Unit Categories; and
  - (v) take any other action in relation to *auctions* that is necessary or consequential on the abolition of the Snowy *region*; and
- (2) must consult with the *settlement residue committee* in amending the *auction rules* under paragraph (1) and is only required to comply with the *Rules consultation procedures* to the extent practicable in the circumstances of the implementation of the abolition of the Snowy *region*.

#### 11.13.14 Continuity of regions

Subject to this rule 11.13 and clause 3.5.6, on and from 00:00 hours *EST* on 1 July 2008:

- (1) the unmodified *regions* continue and are taken to be *regions* for all purposes under the *Rules*; and
- (2) the New South Wales *region* and the Victoria *region* as modified by the *Amending Rule 2007* continue and are taken to be *regions* specified under clause 3.5.1 for all purposes under the *Rules*.

## Part M Economic Regulation of Distribution Services (2007 amendments)

### Division 1 General Provisions

#### 11.14 General provisions

##### 11.14.1 Application of this Division

This Division has no application in relation to Victoria.

##### 11.14.2 Definitions

**amending rules** means the *National Electricity (Economic Regulation of Distribution Services) Amendment Rules 2007*.

**current Chapter 6** means Chapter 6 of these *Rules* as currently in force.

**former Chapter 6** means Chapter 6 of these *Rules* as in force before the substitution of the current Chapter 6 by the amending rules.

**jurisdictional pricing determination** for a *participating jurisdiction* means a determination regulating *distribution service* pricing made by the *Jurisdictional Regulator* for the *participating jurisdiction* and in force immediately before the date of the relevant amendment.

**new regulatory provisions** means the provisions of current Chapter 6 or (if applicable) of later Divisions of this Part providing for the economic regulation of *distribution services* after the transitional regulatory period comes to an end.

**old regulatory regime** for a *participating jurisdiction* includes:

- (a) the jurisdictional pricing determination for the *participating jurisdiction*; and
- (b) the laws (including the former Chapter 6) governing the making, monitoring, administration and enforcement of the jurisdictional pricing determination;
- (c) any other determination, guideline, code or document (whatever its description) of a kind contemplated by the former Chapter 6 that was made for the *participating jurisdiction* by the relevant *Jurisdictional Regulator* and was in force immediately before the date of the relevant amendment;
- (d) any other obligation imposed by or under the former Chapter 6;
- (e) any power or function of the *Jurisdictional Regulator* under the former Chapter 6.

**new regulatory regime** means the system for the economic regulation of *distribution services* contemplated by the new regulatory provisions.

**relevant amendment** means the substitution of the current Chapter 6 for the former Chapter 6 by the amending rules.

**transitional regulatory period** for a *participating jurisdiction* means the *regulatory control period* for which the jurisdictional pricing determination for the relevant *participating jurisdiction* was made.

### 11.14.3 Preservation of old regulatory regime

- (a) Subject to this Part, a *Distribution Network Service Provider* who was providing *distribution services* in a *participating jurisdiction* at the date of the relevant amendment
  - (1) remains subject to the old regulatory regime for the duration of the transitional regulatory period; and

- (2) does not become subject to the new regulatory regime until the end of the transitional regulatory period.

**Examples:**

1. Reporting, monitoring and other compliance requirements continue under the old regulatory regime until the end of the transitional regulatory period and (subject to this Part) are unaffected by the new regulatory provisions.
2. Price regulation continues under the old regulatory regime until the end of the transitional regulatory period and is unaffected by the new regulatory provisions.
3. Prudential, billing and settlement issues are governed by rules 6.7 and 6.8 of former Chapter 6 and any applicable regulatory instruments (rather than Parts J and K of current Chapter 6).
4. Access disputes are dealt with under the old regulatory regime (and cannot be notified under Part L of current Chapter 6).

(b) However:

- (1) the new regulatory provisions govern the making of a distribution determination for the *Distribution Network Service Provider* at the end of the transitional regulatory period; and
- (2) in that respect the new regulatory provisions apply to a *Distribution Network Service Provider* who is still subject to the old regulatory regime as if the jurisdictional pricing determination were a distribution determination approaching the end of its *regulatory control period*.

#### 11.14.4 Transfer of regulatory responsibility

- (a) The Minister for a *participating jurisdiction* may, during the course of the transitional regulatory period, transfer responsibility for the economic regulation of *distribution services* in the relevant jurisdiction from the *Jurisdictional Regulator* to the AER.
- (b) A Minister for a *participating jurisdiction* makes (or is taken to make) a transfer of regulatory responsibility under this clause:
  - (1) by giving notice of the transfer to the *Jurisdictional Regulator* and the AER; or
  - (2) if powers exist apart from this clause under the law of the *participating jurisdiction* to transfer regulatory responsibility from the *Jurisdictional Regulator* to the AER – by exercising those powers.
- (c) If the Minister makes a transfer of regulatory responsibility under this clause:
  - (1) the AER is subrogated to the position of the *Jurisdictional Regulator*; and

- (2) the *AER* may therefore exercise powers and functions of the *Jurisdictional Regulator* (including legislative powers and functions) under the old regulatory regime; and

**Note:**

The *AER* may also use its powers (e.g. for information gathering) under the Law.

- (3) references to the *Jurisdictional Regulator* in a determination or other instrument (including a legislative instrument) related to the old regulatory regime will be read as references to the *AER*.

#### **11.14.5 Special requirements with regard to ring fencing**

- (a) The requirements of the old regulatory regime with regard to ring fencing (rule 6.12 of former Chapter 6 and related guidelines) apply to a *Distribution Network Service Provider* until the *AER* assumes regulatory responsibility at the end of the transitional regulatory period or on the earlier transfer of regulatory responsibility to the *AER*.
- (b) On the *AER's* assumption of regulatory responsibility, a *Distribution Network Service Provider*:
  - (1) ceases to be subject to the requirements of the old regulatory regime with regard to ring fencing; and
  - (2) becomes subject to the ring fencing requirements of the new regulatory regime; but
  - (3) guidelines in force for a *participating jurisdiction* immediately before the *AER's* assumption of regulatory responsibility (**transitional guidelines**) continue in force for that jurisdiction subject to amendment, revocation or replacement by guidelines made under the new regulatory regime.
- (c) The transitional guidelines:
  - (1) are taken to be guidelines made by the *AER* under the new regulatory regime; and
  - (2) are to be construed as if references to a *Jurisdictional Regulator* were references to the *AER*.
- (d) A waiver granted, or additional ring fencing requirement imposed, by a *Jurisdictional Regulator* under the transitional guidelines continues in force under the transitional guidelines subject to variation or revocation by the *AER*.

#### **11.14.6 Additional requirements with regard to cost allocation**

- (a) Even though a *Distribution Network Service Provider* remains subject to the old regulatory regime, the provider is also subject, as from the date of the

relevant amendment, to the requirements of Part F of the current Chapter 6 (Cost Allocation).

- (b) This clause applies only for the purposes of the next distribution determination for the *Distribution Network Service Provider*.

#### **11.14.7 Construction of documents**

To facilitate the transition from the old regulatory regime to the new regulatory regime, references in determinations and other documents to provisions of former Chapter 6 are to be read (where the context admits) to corresponding provisions of the current Chapter 6.

## **Division 2 Special provisions applying to New South Wales and the Australian Capital Territory for the Regulatory Control Period 2009-2014**

### **11.15 Special provisions applying to New South Wales and the Australian Capital Territory**

#### **11.15.1 Regulatory control period 2009-2014 for NSW and ACT**

There is to be a regulatory control period of 5 years for the NSW and ACT Distribution Network Service Providers commencing on 1 July 2009, which is referred to in this Division 2 as the regulatory control period 2009-2014.

#### **11.15.2 Application of Chapter 6 to NSW and ACT for regulatory control period 2009-2014**

- (a) Chapter 6 of the *Rules* applies in relation to the NSW and ACT Distribution Network Service Providers in respect of the regulatory control period 2009-2014 as if that Chapter were amended so as to be in the form set out in Appendix 1 to the *Rules*.
- (b) However, anything required to be done by or in relation to the NSW and ACT Distribution Network Service Providers during the regulatory control period 2009-2014 for the purposes of the *regulatory control period* commencing on 1 July 2014 is to be done in accordance with general Chapter 6, but (where appropriate) taking into account anything done under transitional Chapter 6.
- (c) Accordingly general Chapter 6 does not apply in relation to the NSW and ACT Distribution Network Service Providers in respect of the regulatory control period 2009-2014 except:
  - (1) as provided by paragraphs (a) and (b); and
  - (2) to the extent that a provision of transitional Chapter 6 expressly applies a provision of general Chapter 6 or expressly provides that an

act, matter or thing has to be done in accordance with a provision of or a procedure in general Chapter 6.

- (d) For the avoidance of doubt, this rule 11.15 and transitional Chapter 6 do not apply to *Distribution Network Service Providers* not referred to in paragraph (c).
- (e) References in the *Rules* (other than Chapter 6, this rule 11.15 and rule 11.35) to Chapter 6 or a provision of Chapter 6 are references to transitional Chapter 6 or a provision of transitional Chapter 6 so far as the references relate to the regulatory control period 2009-2014 for the NSW and ACT Distribution Network Service Providers.
- (f) In this rule 11.15:

**general Chapter 6** means Chapter 6 as in force apart from this rule 11.15.

**transitional Chapter 6** means Chapter 6 in the form set out in Appendix 1 to the Rules.

### **Division 3                      Transitional arrangements for first distribution determination for Queensland Distribution Network Service Providers**

#### **11.16              Transitional arrangements for first distribution determination for Queensland Distribution Network Service Providers**

##### **11.16.1      Definitions**

In this Division 3:

**2005 determination** means the Final Determination: Regulation of Electricity Distribution of the Queensland Competition Authority dated April 2005.

**EDSD Review** means the review by the Independent Panel appointed by the Queensland Government into Electricity Distribution and Service Delivery for the 21st Century which was established in March 2004 and reported in July 2004.

**ENERGEX** means Energex Limited A.C.N 078 849 055 and any successor business.

**Ergon Energy** means Ergon Energy Corporation Limited A.C.N. 087 646 062 and any successor business.

**Queensland Competition Authority** means the authority established by section 7 of the *Queensland Competition Authority Act 1997* (Qld).

**regulatory control period** means the *regulatory control period* beginning 1 July 2010.

### 11.16.2 Application of Part to Queensland 2010 distribution determinations

The requirements of this Division 3 apply for the purposes of making a distribution determination for ENERGEX and Ergon Energy for the regulatory control period and modify the application of Chapter 6 of the Rules to the extent set out in this Division 3.

### 11.16.3 Treatment of the regulatory asset base

- (a) Nothing in Chapter 6 of the *Rules* requires ENERGEX or Ergon Energy to amend the approach allowed in the 2005 determination in relation to the treatment of *standard control services* and other services in the regulatory asset base for the regulatory control period.
- (b) The *AER* must accept the approach proposed by ENERGEX and Ergon Energy for the regulatory control period if it is consistent with the approach in the 2005 determination.
- (c) The *AER* must provide for any necessary adjustments or mechanisms in the *distribution determination* for the regulatory control period to prevent any cross-subsidies between *standard control services* and other *distribution services*.

**Note:**

The regulatory asset bases for Ergon Energy and ENERGEX are likely to include assets used to provide services which are not *standard control services* and accordingly the expected revenue for each year will need to be adjusted to avoid double recovery of those costs.

### 11.16.4 Efficiency Benefit Sharing Scheme

- (a) An *efficiency benefit sharing scheme* for ENERGEX and Ergon Energy for the regulatory control period must not cover efficiency gains and losses relating to capital expenditure.
- (b) For the purposes of clause 6.5.8(c) the *AER* must also have regard to the continuing obligations on ENERGEX and Ergon Energy throughout the regulatory control period to implement the recommendations from the EDSD Review adopted by the Queensland Government.

### 11.16.5 Service Target Performance Incentive Scheme

In formulating a *service target performance incentive scheme* to apply to ENERGEX and Ergon Energy for the regulatory control period, the *AER*, in addition to the requirements in clause 6.6.2(b), must also:

- (1) take into account the continuing obligations on ENERGEX and Ergon Energy throughout the regulatory control period to implement the recommendations from the EDSD Review adopted by the Queensland Government;



- (2) take into account the impact of severe weather events on service performance; and
- (3) consider whether the scheme should be applied by way of a paper trial or whether a lower powered incentive is appropriate.

#### **11.16.6 Framework and approach**

- (a) If either ENERGEX or Ergon Energy submits a proposal to the *AER* as to the classification of services and control mechanism for the regulatory control period on or before 31 March 2008, the *AER* must publish its *framework and approach paper* under clause 6.8.1 in relation to those issues within five months of receiving the proposal from ENERGEX or Ergon Energy (as the case may be).
- (b) This clause does not affect the timing or the processes of the *AER* in preparing and publishing its *framework and approach paper* on the remaining issues in clause 6.8.1 for ENERGEX or Ergon Energy if they submit a proposal under paragraph (a).

#### **11.16.7 Regulatory Proposal**

- (a) For the purposes of submitting a *regulatory proposal* under clause 6.8.2 for the regulatory control period, ENERGEX and Ergon Energy may, for the purposes of calculating indicative prices referred to in clause 6.8.2(c)(4) and including X factors for the purposes of clause 6.5.9, treat the proposed statement of regulatory intent published under clause 6.16(b)(1) as if it were the applicable statement of regulatory intent.
- (b) If the statement of regulatory intent differs materially from the proposed statement of regulatory intent, ENERGEX or Ergon Energy may revise its calculation of indicative prices and proposed X factors in its *regulatory proposal* on or before 1 July 2009.
- (c) The *AER* must *publish* any revised information submitted by ENERGEX or Ergon Energy under this clause.

#### **11.16.8 Side constraints**

For the regulatory control period, nothing in clause 6.18.6 should preclude the implementation of any price paths approved by the Queensland Competition Authority (including any necessary adjustment of those price paths in light of the expected revenue for the first *regulatory year* of the regulatory control period).

#### **11.16.9 Cost pass throughs**

- (a) If an event or circumstance occurs before 1 July 2010 which would constitute a pass through under the 2005 determination and no application for a pass through has been made in relation to that event or circumstance, ENERGEX or Ergon Energy may apply to the *AER* within a year of the

event or circumstance occurring to accommodate the impact of the event in the regulatory control period.

- (b) The *AER* must allow a pass through of such amounts if the event or circumstance would have constituted a pass through under the 2005 determination as if the amounts were *approved pass through amounts* under clause 6.6.1.

#### **11.16.10 Capital Contributions Policy**

- (a) ENERGEX and Ergon Energy must comply with a capital contributions policy published under this clause 11.16.10 for the regulatory control period.
- (b) By 1 July 2009, ENERGEX and Ergon Energy must publish on their website a capital contributions policy based upon the requirements relating to capital contributions in their Network Pricing Principles Statements approved by the Queensland Competition Authority immediately in force prior to 1 July 2009.
- (c) The *AER* may by written notice, before 1 January 2010, direct ENERGEX or Ergon Energy to revise and republish their capital contributions policy within 15 *business days* of the notice only if the published policy does not give effect to the requirements relating to capital contributions in their Network Pricing Principles Statement.
- (d) After 1 January 2010, ENERGEX or Ergon Energy may apply to the *AER* to amend their published capital contributions policy and the *AER* may, after such consultation as it considers appropriate, approve or not approve that amendment.

### **Division 4 Transitional provisions of specific application to Victoria**

#### **11.17 Transitional provisions of specific application to Victoria**

##### **11.17.1 Definitions**

In this Division:

**AMI Order in Council** means the Order in Council made by the Governor of Victoria under section 15A and section 46D of the *Electricity Industry Act 2000* (Vic) and published in the Victoria Government Gazette on 28 August 2007 (and includes that Order in Council as amended from time to time).

**ESC cost allocation guidelines** means *Electricity Industry Guideline No.3, Regulatory Information Requirements* made by the ESC and dated 14 December 2006 (and includes those guidelines as amended from time to time).

**ESC distribution pricing determination** means the Victorian distribution pricing determination as defined in section 3(1) of the *National Electricity (Victoria) Act 2005*.

**Victorian Distribution Network Service Provider** means a *Distribution Network Service Provider* for a *distribution network* situated wholly or partly in Victoria.

#### 11.17.2 Calculation of estimated cost of corporate income tax

- (a) This clause applies to the calculation of the estimated cost of corporate income tax for the purposes of distribution determinations that are to take effect on 1 January 2011 for Victorian Distribution Network Service Providers.
- (b) For calculating the estimated cost of corporate income tax, the *AER* must adopt:
  - (1) the taxation values of assets carried over from the ESC distribution pricing determination; and
  - (2) the classification of assets, and the method of classification, adopted for the ESC distribution pricing determination; and
  - (3) the same method of depreciation as was adopted by the ESC for the ESC distribution pricing determination.
- (c) The *AER* may, however, depart from methods of asset classification or depreciation mentioned in paragraph (b)(2) or (3) to the extent required by changes in the taxation laws or rulings given by the Australian Taxation office.
- (d) A *post-tax revenue model* must be consistent with this clause.

#### 11.17.3 Decisions made in the absence of a statement of regulatory intent

- (a) This clause applies if a Victorian Distribution Network Service Provider submits a *building block proposal* before the *AER* issues a statement of regulatory intent.
- (b) In deciding questions to which the considerations stated in clause 6.5.4(e) are relevant, the *AER* must have regard to those considerations.

#### 11.17.4 Cost allocation guidelines

- (a) In formulating the *Cost Allocation Guidelines* under clause 6.15.3, the *AER* must include guidelines specifically applicable to Victorian Distribution Network Service Providers (the **guidelines of specific application to Victoria**).
- (b) The guidelines of specific application to Victoria:

- (1) must be formulated with regard to the ESC cost allocation guidelines; and
- (2) must be designed to ensure, to the maximum practicable extent, consistency between cost allocation as required by the ESC distribution pricing determination and cost allocation in later *regulatory control periods*.

#### **11.17.5 Modification of requirements related to cost allocation method**

- (a) Clause 6.15.4(a) applies to a Victorian Distribution Network Service Provider as if, instead of requiring submission of the provider's proposed *Cost Allocation Method* within 12 months after the commencement of Chapter 6, it required submission of the proposed *Cost Allocation Method* together with the first *building block proposal* to be submitted by the provider after the commencement of Chapter 6.
- (b) The references in clauses 6.5.6(b)(2) and 6.5.7(b)(2) to the *Cost Allocation Method* are, if paragraph (a) is applicable, to be read as references to the proposed *Cost Allocation Method* submitted with the *building block proposal*.
- (c) The *AER* must include in its *framework and approach paper* prepared for a Victorian *Distribution Network Service Provider*, in relation to the first *building block proposal* to be submitted by the provider after the commencement of Chapter 6, a statement of its likely approach to cost allocation based on the guidelines then in force.
- (d) The *AER*:
  - (1) must, in deciding under clause 6.15.4(c) whether to approve a *Cost Allocation Method* submitted by a Victorian Distribution Network Service Provider, have regard to previous cost allocation in accordance with the ESC distribution pricing determination; and
  - (2) must not approve the *Cost Allocation Method* unless it allows effective comparison of historical and forecast cost allocation between the period to which the ESC distribution pricing determination applies and later *regulatory control periods*; and
  - (3) may, subject to the relevant *Cost Allocation Guidelines*, refuse to approve the *Cost Allocation Method* if it differs from the method previously used by the Victorian Distribution Network Service Provider.

#### **11.17.6 AMI Order in Council**

- (a) Metering services that are regulated under the AMI Order in Council are not, while so regulated, subject to regulation under a distribution determination but, on cessation of regulation under the AMI Order in Council, are liable to regulation under a distribution determination.

- (b) However, for a relevant *regulatory control period*, services to which exit fees under clause 7, or restoration fees under clause 8, of the AMI Order in Council applied are to be classified as alternative control services and are to be regulated by the *AER* on the same basis as applied under the AMI Order in Council.
- (c) For paragraph (b), a relevant *regulatory control period* is a *regulatory control period* commencing on or after 1 January 2016 and before 1 January 2021.
- (d) Until there is a transfer of regulatory responsibility from the ESC to the *AER* under a law of Victoria, clause 7.3.6(f) in its application to Victoria will be read as if it permitted the recovery of the costs to which it refers in accordance with a determination made either by the *AER* or by the ESC.
- (e) This clause expires on 1 January 2021.

## **Part N Registration of Foreign Based Persons and Corporations as Trader Class Participants (2007 amendments)**

### **11.18 Rules consequential on the making of the National Electricity Amendment (Registration of Foreign Based Persons and Corporations as Trader Class Participants) Rule 2007**

#### **11.18.1 Definitions**

For the purposes of this rule 11.18:

**Amending Rule** means the *National Electricity Amendment (Registration of Foreign Based Persons and Corporations as Trader Class Participants) Rule 2007*.

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

#### **11.18.2 Auction rules**

- (a) *NEMMCO* must amend the *auction rules* by 1 September 2008 in accordance with clause 3.18.3 to incorporate the amendments to the *Rules* made by the Amending Rule.
- (b) Any action taken by *NEMMCO* prior to the commencement date, in anticipation of the commencement date, to amend the *auction rules* for the purpose of the Amending Rule is taken to satisfy the equivalent action under clause 3.18.3.

## **Part O Process for Region Change (2007 amendments)**

### **11.19 Rules consequent on making of the National Electricity Amendment (Process for Region Change) Rule 2007**

#### **11.19.1 Definitions**

**Amending Rule** means the *National Electricity Amendment (Process for Region Change) Rule 2007*.

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

**old clause 3.5.5** means clause 3.5.5 of the *Rules* as in force immediately before the commencement date.

#### **11.19.2 Regions Publication**

The Regions Publication published by *NEMMCO* immediately before the commencement date in accordance with old clause 3.5.5 and clause 11.13.10 is taken to be the *Regions Publication published by NEMMCO* in accordance with clause 2A.1.3.

## **Part P Integration of NEM Metrology Requirements**

### **11.20 Rules consequential on the making of the National Electricity Amendment (Integration of NEM Metrology Requirements) Rule 2008**

#### **11.20.1 Definitions**

For the purposes of this rule 11.20:

**Amending Rule** means the *National Electricity Amendment (Integration of NEM Metrology Requirements) Rule 2008*.

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

**first-tier jurisdictional requirements publication** means the publication published by *NEMMCO* in accordance with clause 11.20.6.

**Minimalist Transitioning Approach** has the same meaning as in the Queensland Electricity Industry Code.

**new clause 7.3.1** means clause 7.3.1 of the *Rules* immediately after the commencement date.

**Victorian first-tier load** means a load in Victoria where the electricity flowing through the *connection point* is equal to, or greater than, 160 MWh per annum.

### **11.20.2 Metering installations for non-market generating units immediately prior to 30 June 2008**

- (a) A *metering installation* for a *non-market generating unit* that was installed immediately prior to 30 June 2008 and complied with the applicable jurisdictional requirements for that installation on 30 June 2008 is taken to satisfy the requirements for *metering installations* for *non-market generating units* in new clause 7.3.1.
- (b) Where a *metering installation* for a *non-market generating unit* did not comply with the requirements referred to in paragraph (a), that installation must be repaired or replaced in accordance with the requirements of new clause 7.3.1.
- (c) The applicable jurisdictional requirements for *metering installations* for *non-market generating units* referred to in paragraph (a) must be referred to in the first-tier jurisdictional requirements publication.

### **11.20.3 First-tier load metering installations**

- (a) Subject to clause 11.20.5, a *first-tier load metering installation* as at 30 June 2008 that complied with the applicable jurisdictional requirements for that installation as at that date is taken to comply with the *Rules* provided the *metering installation* continues to comply with the applicable jurisdictional requirements as at 30 June 2008.
- (b) A *first-tier load metering installation* that does not satisfy the requirements of paragraph (a) must be repaired or replaced in accordance with the *Rules*.
- (c) The applicable jurisdictional requirements referred to in paragraph (a) for *first-tier load metering installations* must be referred to in the first-tier jurisdictional requirements publication.

### **11.20.4 First-tier load metering installations in Victoria**

- (a) Subject to paragraph (b) and despite the *Rules*, a *Market Participant* who is responsible for a Victorian *first-tier load* with a type 5 or type 6 *metering installation* immediately before the commencement date is taken to be the *responsible person* for that *metering installation*.
- (b) A *Market Participant* who is taken to be the *responsible person* for the *metering installation* referred to in paragraph (a) must ensure the *metering installation* meets the applicable jurisdictional requirements for that installation as referred to in the first-tier jurisdictional requirements publication in accordance with clause 11.20.3(c).

### **11.20.5 Minimalist Transitioning Approach in Queensland**

For the duration of the Minimalist Transitioning Approach, clauses 7.2.3(i)(2), 7.2.5(b)(2), 7.2.5(d)(6) and 7.3.1(f) of the *Rules* do not apply in respect of a *metering installation* which:

- (a) is the responsibility of a *Market Participant* or *responsible person* who is operating under the Minimalist Transitioning Approach in Queensland; and
- (b) in accordance with the *Market Settlement and Transfer Solution Procedures*:
  - (1) has a *NMI* classification of SMALL; and
  - (2) the *Local Network Service Provider* has not received a valid request from a *Market Customer* for the *NMI* to be registered with *NEMMCO*.

#### **11.20.6 First-tier jurisdictional requirements publication**

- (a) *NEMMCO* must, in consultation with the *participating jurisdictions*, *publish* a document ('first-tier jurisdictional requirements publication') that lists the documents that contain the applicable jurisdictional requirements referred to in clauses 11.20.2, 11.20.3 and 11.20.4.
- (b) *NEMMCO* must *publish* the first-tier jurisdictional requirements publication by 30 June 2008.

#### **11.20.7 Metrology procedure**

- (a) *NEMMCO* must make the required amendments to the *metrology procedure* as a result of the Amending Rule by 31 July 2008.
- (b) All actions taken by *NEMMCO* prior to the commencement date to amend the *metrology procedure* in accordance with paragraph (a) are deemed to be valid as at the commencement date to the extent that those actions were taken in accordance with the relevant requirements of rule 7.14 (as though the Amending Rule was in force at the time that the action was taken).
- (c) The *metrology procedure* published in accordance with rule 7.14 immediately before the commencement date continues to apply as if the Amending Rule had not been made and until *NEMMCO publishes* the amended the *metrology procedure* in accordance with paragraph (a).

### **Part PA Reliability Settings: Information Safety Net and Directions**

#### **11.21 Rules consequential on the making of the National Electricity Amendment (NEM Reliability Settings: Information Safety Net and Directions) Rule 2008**

##### **11.21.1 Definitions**

In this rule 11.21:

**Amending Rule** means the *National Electricity Amendment (NEM Reliability Settings: Information Safety Net and Directions) Rule 2008* No. 6.

**Commencement date** means the date the Amending Rule commences operation.



### **11.21.2 EAAP guidelines**

All actions taken by *NEMMCO* prior to the commencement date in anticipation of the commencement date for the purposes of preparing and publishing the first *EAAP guidelines* as required by clause 3.7C(p) are taken to satisfy the equivalent actions required for *EAAP guidelines* under rule 3.7C.

### **11.21.3 [Deleted]**

### **11.21.4 [Deleted]**

### **11.21.5 Timetable**

- (a) *NEMMCO* must amend the *timetable* in accordance with clause 3.4.3(b) to take into account the Amending Rule and those amendments are to take effect from the commencement date.
- (b) All actions taken by *NEMMCO* prior to the commencement date in anticipation of the commencement date to amend the *timetable* as required by paragraph (a) are taken to satisfy the equivalent action required under clause 3.4.3(b).

### **11.21.6 Power system security and reliability standards**

- (a) The *Reliability Panel* must amend the *power system security and reliability standards* in accordance with clause 8.8.3 to take into account the Amending Rule and those amendments are to take effect from the commencement date.
- (b) All actions taken by the *Reliability Panel* prior to the commencement date in anticipation of the commencement date to amend the *power system security and reliability standards* as required by paragraph (a) are taken to satisfy the equivalent action required under clause 8.8.3.

### **11.21.7 Report on statement of opportunities**

All actions taken by *NEMMCO* prior to the commencement date in anticipation of the commencement date for the purposes of preparing and providing a report to the *Reliability Panel* as required by clause 3.13.3(u) are taken to satisfy the equivalent actions required for preparing and providing a report under clause 3.13.3(u).

### **11.21.8 Methodology for dispatch prices and ancillary services prices**

Minor or administrative amendments made by *NEMMCO* to the methodology for determining *dispatch prices* and *ancillary service prices* developed in accordance with clause 3.9.3(e) prior to the commencement date are taken to have been made under clause 3.9.3(g).

## **Part Q Regulatory Test Thresholds and Information Disclosure on Network Replacements**

### **11.22 Rules consequential on the making of the National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008**

#### **11.22.1 Definitions**

In this rule 11.22:

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

**Amending Rule** means the *National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008*.

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

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

#### **11.22.2 Amending Rule does not affect existing regulatory test**

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

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

## **Part R Performance Standard Compliance of Generators**

### **11.23 Rules consequential on the making of the National Electricity Amendment (Performance Standards Compliance of Generators) Rule 2008**

#### **11.23.1 Definitions**

For the purposes of this rule 11.23:

**Amending Rule** means the *National Electricity Amendment (Performance Standards Compliance of Generators) Rule 2008*.

**Old Clause 5.7.3(b)** means the clause 5.7.3(b) in the version of the *Rules* that was in force immediately prior to the commencement of the Amending Rule.

#### **11.23.2 Application of rule 11.23 for compliance programs implemented immediately after the commencement of the Amending Rule**

*Registered Participants* are not required to comply with the obligation set out in rule 4.15(b) until 3 months after the day on which the *Reliability Panel* published its initial *template for generator compliance programs* under clause 8.8.3 of the *Rules* or until a date determined by the *Reliability Panel*.

#### **11.23.3 Application of rule 11.23 for compliance programs implemented immediately prior to the commencement of the Amending Rule**

*Registered Participants* which implemented compliance programs under the Old Clause 5.7.3(b) must maintain compliance with those programs until 3 months after the day on which the *Reliability Panel* published its initial *template for generator compliance programs* under clause 8.8.3 of the *Rules* or until a date determined by the *Reliability Panel*.

#### **11.23.4 Application of rule 11.23 for compliance programs not implemented immediately prior to the commencement of the Amending Rule**

*Registered Participants* which have not implemented compliance programs under the Old Clause 5.7.3(b) must implement and maintain compliance programs under the Old Clause 5.7.3(b) until 3 months after the day on which the *Reliability Panel* published its initial *template for generator compliance programs* under clause 8.8.3 of the *Rules* or until a date determined by the *Reliability Panel*.

## **Part S Compensation Arrangements under Administered Pricing**

### **11.24 Rules consequential on the making of National Electricity Amendment (Compensation Arrangements under Administered Pricing) Rule 2008**

#### **11.24.1 Definitions**

In this rule 11.24:

**Amending Rule** means the *National Electricity Amendment (Compensation Arrangements under Administered Pricing) Rule 2008*.

**commencement date** means the date the Amending Rule commences operation.

#### **11.24.2 Compensation Guidelines**

All actions taken by the AEMC prior to the commencement date in anticipation of the commencement date for the purposes of developing and *publishing* the first compensation guidelines as required by clause 3.14.6(e) are taken to satisfy the equivalent actions required for compensation guidelines under clause 3.14.6(f).

## **Part U Confidentiality Arrangements concerning Information required for Power System Studies**

### **11.25 Rule consequential on the making of the National Electricity Amendment (Confidentiality Arrangements in Respect of Information Required for Power System Studies) Rule 2009**

#### **11.25.1 Definitions**

For the purposes of rule 11.25:

**Amending Rule** means the *National Electricity Amendment (Confidentiality Arrangements in Respect of Information Required for Power System Studies) Rule 2009*.

**Commencement date** means the date on which the Amending Rule commences operation.

#### **11.25.2 Transitional arrangements for the provision of information**

- (a) A *Generator* must provide NEMMCO with a *releasable user guide* by 29 May 2009 or a date which NEMMCO considers to be reasonable in the circumstances but which must be no later than 27 November 2009, except in relation to the following information:
  - (1) information provided to NEMMCO before 15 March 2007 that NEMMCO holds at the commencement date only to the extent that such information is of a type required in a *releasable user guide* and

- was authorized by the *Rules* to be released for the same purpose as intended by clause 3.13.3(l) as at the date that information was provided to *NEMMCO*; and
- (2) information provided to *NEMMCO* after 15 March 2007 only if the relevant *Generator* has provided to *NEMMCO* model source code under clause S5.2.4(b)(6), being the provider identified in clause 3.13.3(l2), and provides its written consent to *NEMMCO* for *NEMMCO* to use information that *NEMMCO* holds at the commencement date of a type required in a *releasable user guide* for the purposes of clause 3.13.3(l).
- (b) A person required under the *Rules* to register as a *Generator* in respect of a *generating system* comprised of *generating units* with a combined *nameplate rating* of 30 MW or more, must provide *NEMMCO* with a *releasable user guide* by 29 May 2009 or a date which *NEMMCO* considers to be reasonable in the circumstances but which must be no later than 27 November 2009, except in relation to the following information:
- (1) information provided to *NEMMCO* before 15 March 2007 that *NEMMCO* holds at the commencement date only to the extent that such information is of a type required in a *releasable user guide* and was authorized by the *Rules* to be released for the same purpose as intended by clause 3.13.3(l) as at the date that information was provided to *NEMMCO*; and
  - (2) information provided to *NEMMCO* after 15 March 2007 only if the relevant person described in this paragraph as required under the *Rules* to register as a *Generator*, has provided to *NEMMCO* model source code under clause S5.2.4(b)(6), being the provider identified in clause 3.13.3(l2), and provides its written consent to *NEMMCO* for *NEMMCO* to use information that *NEMMCO* holds at the commencement date of a type required in a *releasable user guide* for the purposes of clause 3.13.3(l).
- (c) If a *Generator* provided to *NEMMCO* model source code under clause S5.2.4(b)(6) between 15 March 2007 and the commencement date:
- (1) it may provide to *NEMMCO* a substitute model source code in respect of its *generating system* in conjunction with a *releasable user guide* provided under rule 11.25.2(a); and
  - (2) that substitute model source code will be taken to be the model source code provided under clause S5.2.4(b)(6) only if it complies with clause S5.2.4(c).
- (d) If a person required under the *Rules* to register as a *Generator* in respect of a *generating system* comprised of *generating units* with a combined *nameplate rating* of 30 MW or more, provided to *NEMMCO* model source code under clause S5.2.4(b)(6) between 15 March 2007 and the commencement date:

- (1) it may provide to *NEMMCO* a substitute model source code in respect of its *generating system* in conjunction with a *releasable user guide* provided under rule 11.25.2(b); and
- (2) that substitute model source code will be taken to be the model source code provided under clause S5.2.4(b)(6) only if it complies with clause S5.2.4(c).
- (e) *Releasable user guide* information provided to *NEMMCO* under clauses 11.25.2(a) and 11.25.2(b) is deemed to be *releasable user guide* information provided under clause S5.2.4(b)(8) and for the purposes of clause 3.13.3(l).
- (f) *NEMMCO* must implement any changes to its systems needed to comply with its obligations under the Amending Rule within 12 months of the commencement date.

## **Part V WACC Reviews: Extension of Time**

### **11.26 Rule consequential on the making of the National Electricity Amendment (WACC Reviews: Extension of Time) Rule 2009**

#### **11.26.1 Definitions**

In this rule 11.26:

**regulatory control period 2010-2015** means the *regulatory control period* commencing on 1 July 2010 in relation to *Distribution Network Service Providers* in South Australia and Queensland.

#### **11.26.2 Extension of time to submit a regulatory proposal for the regulatory control period 2010-2015**

- (a) This rule 11.26 applies to *Distribution Network Service Providers* in South Australia and Queensland.
- (b) Despite clause 6.8.2(b)(1), where a relevant *Distribution Network Service Provider* is required to submit a *regulatory proposal* for the *regulatory control period 2010-2015* to the *AER* under clause 6.8.2(a), that *regulatory proposal* must be submitted by 1 July 2009.

## **Part W National Transmission Statement**

### **11.27 Rules consequent on the making of the National Electricity Amendment (National Transmission Statement) Rule 2009**

#### **11.27.1 Definitions**

For the purposes of this rule 11.27:

**Amending Rule 2009** means the *National Electricity Amendment (National Transmission Statement) Rule 2009*.

**commencement date** means the date on which the Amending Rule 2009 commences operation.

**jurisdictional planning body** means an entity nominated from time to time by the relevant *Minister* of a *participating jurisdiction* as having *transmission system* planning responsibility in that *participating jurisdiction*.

**National Transmission Network Development Plan** means the document that is to replace the *Annual National Transmission Statement*, the first of which is to be *published* by *AEMO* after 2009.

**National Transmission Statement** means the statement *published* by *AEMO* in accordance with clause 11.27.4.

**National Transmission Statement review** or **NTS review** means the review conducted by *AEMO* in accordance with clause 11.27.4.

### 11.27.2 Purpose

The purpose of this rule 11.27 is to require *AEMO* to publish a National Transmission Statement by 31 December 2009 in the place of an *Annual National Transmission Statement* for 2009. This will facilitate the efficient transition from the *Annual National Transmission Statement* in 2008 to the first National Transmission Network Development Plan to be *published* after 2009.

### 11.27.3 Application of rule 11.27

From the commencement date, rule 11.27 applies despite any other provision of the *Rules* (including any guideline or procedure made under the *Rules*) applicable to the *ANTS review* and *publication* of an *Annual National Transmission Statement* for 2009.

### 11.27.4 National Transmission Statement

(a) *AEMO* must conduct a review of the following matters:

- (1) *national transmission flow paths*;
- (2) historical and forecast utilisation of *national transmission flow paths*;
- (3) historical and forecast *constraints* in respect of *national transmission flow paths*, including those identified in the *Annual Planning Reports*;
- (4) *augmentations* proposed by each *Transmission Network Service Provider* in their most recent *Annual Planning Reports* and the manner in which the proposed *augmentations* relate to the *national transmission flow paths*;

- (5) other *network* and *non-network* options identified during the consultation described in paragraph (b) and the manner in which the options relate to the *national transmission flow paths*,
- (the **NTS review**) and prepare and *publish* the National Transmission Statement by 31 December 2009 setting out the results of the NTS review.
- (b) *AEMO* must, in carrying out the NTS review, consult with *Registered Participants* and *interested parties* in relation to:
  - (1) the data and assumptions to be used as part of the review;
  - (2) the potential options for addressing identified *constraints* impacting *national transmission flow paths*; and
  - (3) the content of the National Transmission Statement.
- (c) In carrying out the NTS review, *AEMO* must consider the following matters:
  - (1) the location of the current *national transmission flow paths* and the current capacities, *constraints* and congestion points on those flow paths;
  - (2) the location of the potential *national transmission flow paths* over the next 20 years, and the likely capabilities, *constraints* and congestion points on those flow paths;
  - (3) the quantity of electricity which flowed, the periods in which the electricity flowed, and *constraints*, on the *national transmission flow paths* over the previous *financial year* or such other period as determined by *AEMO* having regard to data which is available to *AEMO*;
  - (4) the forecast quantity of electricity which is expected to flow, and the periods in which the electricity is expected to flow, the magnitude and significance of future *network losses* and *constraints* on the current and potential *national transmission flow paths* over the current *financial year* or such other period as determined by *AEMO* having regard to data which is available to *AEMO*;
  - (5) the projected capabilities of the existing *transmission network* and the *network control ancillary services* required to support existing and future *transmission network* capabilities;
  - (6) demand forecasts for the next 20 *financial years*;
  - (7) possible scenarios for additional *generation* and demand side options to meet demand forecasts;



- (8) relevant intra-jurisdictional developments and any incremental works which may be needed to coordinate *national transmission flow path* planning with intra-jurisdictional planning;
  - (9) the options for relieving forecast *constraints* on the *national transmission flow paths* identified in the *Annual Planning Reports* or through the consultation required under paragraph (b); and
  - (10) such other matters as *AEMO*, in consultation with the *participating jurisdictions*, considers are appropriate.
- (d) In considering the matters described in paragraph (c), *AEMO* must have regard to:
- (1) the *Annual Planning Reports* published in 2009; and
  - (2) information obtained for the purposes of preparing the *statement of opportunities* to be published in 2009;
- and may include information from the *Annual Planning Reports* and the *statement of opportunities* in the National Transmission Statement.
- (e) In carrying out the NTS review, *AEMO* may seek the assistance of each jurisdictional planning body.
  - (f) *AEMO* may by written notice request a jurisdictional planning body to provide *AEMO* with any additional information or documents reasonably available to it that *AEMO* reasonably requires for the purpose of the NTS review.
  - (g) A jurisdictional planning body must comply with a written notice from *AEMO* issued under paragraph (f).
  - (h) *AEMO* may only use information or documents provided in accordance with paragraphs (f) and (g) for the purpose of preparing the National Transmission Statement or, where relevant, the *statement of opportunities* to be published in 2009.

#### **11.27.5 Scope and Content of National Transmission Network Development Plan**

The National Transmission Statement must also identify the expected scope and content of the first National Transmission Network Development Plan.

#### **11.27.6 Energy Adequacy Assessment Projection**

Despite anything to the contrary in rule 3.7C, until the first *National Transmission Network Development Plan* is published, clause 3.7C(b)(6)(B) is to be taken as requiring the *EAAP* to take into account, where relevant, the matters *AEMO* is required to consider for the purposes of clause 11.27.4(c) in carrying out the *NTS review*.

### 11.27.7 Amendment to Last Resort Power

The National Transmission Statement is deemed to be an *Annual National Transmission Statement* for 2009 for the purposes of clause 5.6.4(g)(2).

### 11.27.8 Actions taken prior to commencement of Rule

Any relevant action taken by *NEMMCO* prior to the commencement date is taken to have been made or done in accordance with the *Rules* for the purpose of the Amending Rule 2009.

## Part X National Transmission Planning

### 11.28 Rules consequential on the making of the *National Electricity (Australian Energy Market Operator) Amendment Rules 2009*

#### 11.28.1 Definitions

In this rule:

**amending rules** means the *National Electricity (Australian Energy Market Operator) Amendment Rules 2009*.

**commencement date** means the date Schedule 2 of the amending rules comes into operation.

**new National Electricity Rules** means the National Electricity Rules as in force after the commencement date.

**old National Electricity Rules** means the National Electricity Rules as in force before the commencement date.

#### 11.28.2 Jurisdictional planning bodies and representatives

- (a) The former responsible planning entity for a *participating jurisdiction* is taken to be the *jurisdictional planning body* for the *participating jurisdiction* until the relevant *Minister* nominates a different entity under the new National Electricity Rules.
- (b) The *representative* from the former responsible planning entity for a *participating jurisdiction* who was a member of the *Inter-regional Planning Committee* immediately before the commencement date is taken to be the *jurisdictional planning representative* for that *participating jurisdiction* under the new National Electricity Rules until another person is nominated under the new National Electricity Rules.
- (c) This clause does not apply to a jurisdiction for which *AEMO* is the *jurisdictional planning body*.
- (d) In this clause:

**former responsible planning entity** for a *participating jurisdiction* means the entity that was treated, for the purposes of clause 5.6.3(b)(2) of the old National Electricity Rules, as having *transmission system* planning responsibility in the *participating jurisdiction*.

### 11.28.3 Criteria and guidelines published by Inter-regional Planning Committee

- (a) The old *transmission network augmentation* criteria continue in force, subject to revocation or variation by *AEMO*, as if they had been *published* by *AEMO* under clause 5.6.3(b) of the new National Electricity Rules.
- (b) The old inter-network test guidelines continue in force, subject to revocation or variation by *AEMO*, as if they had been *published* by *AEMO* under clause 5.7.7(k) of the new National Electricity Rules.
- (c) In this clause:

**old inter-network test guidelines** means guidelines for assisting *Registered Participants* to determine when an *inter-network test* may be required that were *published* by the *Inter-regional Planning Committee* under clause 5.7.7(k) of the old National Electricity Rules and were applicable immediately before the commencement date.

**old transmission network augmentation criteria** means criteria for assessing whether a proposed *transmission network augmentation* is reasonably likely to have a *material inter-network impact* that were *published* by the *Inter-regional Planning Committee* under clause 5.6.3(i) of the old National Electricity Rules and were applicable immediately before the commencement date.

### 11.28.4 Augmentation technical reports

If a request for an *augmentation technical report* was made under clause 5.6.3 of the old National Electricity Rules, but proceedings based on, or related to, the request had not been completed by the commencement date, the proceedings are to be continued and completed by *AEMO* as if anything done under the old National Electricity Rules had been done under the corresponding provisions of the new National Electricity Rules.

### 11.28.5 Last Resort Planning Power

For the purposes of clause 5.6.4(g)(2) of the new National Electricity Rules, a reference to an *NTNDP* extends to:

- (1) the *National Transmission Statement* published under clause 11.27.4;
- (2) an *Annual National Transmission Statement* published under clause 5.6.5 of the old National Electricity Rules .

### 11.28.6 Inter-network power system tests

- (a) Proceedings commenced before the commencement date under clause 5.7.7 of the old National Electricity Rules may be continued and completed under clause 5.7.7 of the new National Electricity Rules.
- (b) Anything validly done before the commencement date under clause 5.7.7 of the old National Electricity Rules is taken to have been validly done under the corresponding provision of clause 5.7.7 of the new National Electricity Rules.

### 11.28.7 Control and protection settings for equipment

- (a) A matter referred to the *Inter-regional Planning Committee* under clause 5.8.3(d) of the old National Electricity Rules that remained undecided at the commencement date must be decided by AEMO within 20 *business days* after the commencement date.
- (b) AEMO's decision is final.

### 11.28.8 Revenue Proposals

Clauses 6A.6.6(e)(11) and 6A.6.7(e)(11) of the new National Electricity Rules only apply in respect of a *Revenue Proposal* submitted to the AER under clause 6A.10.1 of the new National Electricity Rules more than 20 *business days* after the commencement date.

## Part Y Regulatory Investment Test for Transmission

### 11.29 Rules consequent on making of the National Electricity Amendment (Regulatory Investment Test for Transmission) Rule 2009

#### 11.29.1 Definitions

For the purposes of this rule 11.29:

**Amending Rule** means the *National Electricity Amendment (Regulatory Investment Test for Transmission) Rule 2009*.

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

**current application** means any action taken or process initiated under the *Rules* which relies on or is referenced to the *regulatory test* and is not completed as at 1 August 2010.

**initiated** means:

- (a) in respect of a *new large transmission network asset* (as defined under the *Rules* immediately prior to the commencement date), that an application

notice has been made available in respect of that asset in accordance with the old clause 5.6.6(c);

- (b) in respect of a *new small transmission network asset* (as defined under the *Rules* immediately prior to the commencement date), that consultation has already commenced in respect of that asset in accordance with the old clause 5.6.6A(a).

**new clauses 5.6.5B-E** means clauses 5.6.5B-E of the *Rules* after the commencement date.

**old clause 5.6.2A(b)(5)** means clause 5.6.2A(b)(5) of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the Amending Rule) as in force immediately before the commencement date.

**old clause 5.6.5A** means clause 5.6.5A of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the Amending Rule) as in force immediately before the commencement date.

**old clause 5.6.6** means clause 5.6.6 of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the Amending Rule) as in force immediately before the commencement date.

**old clause 5.6.6A** means clause 5.6.6A of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the Amending Rule) as in force immediately before the commencement date.

#### **11.29.2 Period when Amending Rule applies to transmission investment**

- (a) For the period from the commencement date to 1 August 2010:
  - (1) new clauses 5.6.5B-E have no effect in respect of *transmission investment*; and
  - (2) old clause 5.6.2A(b)(5), old clause 5.6.5A, old clause 5.6.6, old clause 5.6.6A and the *regulatory test* and *regulatory test application guidelines* promulgated from time to time under clause 5.6.5A, continue to apply in respect of *transmission investment*.
- (b) From 1 August 2010:
  - (1) new clauses 5.6.5B-E will have effect in respect of *transmission investment*;
  - (2) old clause 5.6.5A, old clause 5.6.6, old clause 5.6.6A, and the *regulatory test* and *regulatory test application guidelines* promulgated from time to time under clause 5.6.5A, continue to apply in respect of any current application; and
  - (3) for the purposes of an *Annual Planning Report published* before 1 August 2010, old clause 5.6.2A(b)(5) applies to any current application in relation to a *new small transmission network asset* (as

defined under the *Rules* immediately prior to the commencement date).

## Part Z Congestion Information Resource

### 11.30 Rules consequent on the making of the National Electricity Amendment (Congestion Information Resource) Rule 2009

#### 11.30.1 Definitions

In this rule 11.30:

**Amending Rule** means the National Electricity Amendment (Congestion Information Resource) Rule 2009.

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

**interim congestion information resource** means the information resource developed and *published* in accordance with clause 11.30.2.

**network outage schedule** means a schedule developed by *AEMO* based on information received from *Transmission Network Service Providers* in accordance with rule 3.7A that lists the planned *network outages* on each *transmission system* for a period of up to two years in advance and that identifies the likelihood of each planned *network outages* proceeding following an assessment of forecast demand for the period of the planned *network outages*.

#### 11.30.2 Interim congestion Information resource

- (a) Pending the development and *publication* of the *congestion information resource* under rule 3.7A, *AEMO* must develop an interim congestion information resource to implement the *congestion information resource objective* in accordance with this rule 11.30. For the avoidance of doubt, *AEMO* is not required to follow the *Rules consultation procedures* in developing the interim congestion information resource.
- (b) The interim congestion information resource must include:
  - (1) the *network outages* schedule;
  - (2) historical data on *mis-pricing* at *transmission network* nodes in the *national electricity market*;
  - (3) the following information on *network outages* planned for the subsequent thirteen months that, in the reasonable opinion of the relevant *Transmission Network Service Provider*, will have or are likely to have a material effect on transfer capabilities:

- (i) details of the forecast timing and the factors affecting the timing of planned *network outages* and the likelihood that the planned timing will vary; and
    - (ii) details of the reasons for the planned *network outages*, including the nature, and a description, of the works being carried out during the planned *network outages*, if any;
  - (4) the following information on planned *network outages* referred to in subparagraph (3):
    - (i) an assessment of the projected impact on *intra-regional settlements residue*, the accuracy of which must be appropriate to implement the *congestion information resource objective*; and
    - (i) an assessment of the projected impact on *inter-regional settlements residue*, the accuracy of which must be appropriate to implement the *congestion information resource objective*;
  - (5) any other information with respect to planned *network outages* referred in subparagraph (3) that *AEMO* considers relevant to implement the *congestion information resource objective*; and
  - (6) any other information that *AEMO*, in its reasonable opinion, considers relevant to implement the *congestion information resource objective*.
- (c) Each month, in accordance with the *timetable* for the provision of information to *medium term PASA*, each *Transmission Network Service Provider* must provide to *AEMO*:
- (1) the information referred to in paragraphs (b)(3) and (b)(4); and
  - (2) for the purposes of paragraph (b)(5), any other information with respect to the planned *network outages* referred to in paragraph (b)(3) that *AEMO* considers relevant to implement the *congestion information resource objective*.
- (d) By 1 March 2010, *AEMO* must *publish* the interim congestion information resource and amend the *timetable* taking into account the Amending Rule.
- (e) *AEMO* must determine the frequency of updating (whether in whole or in part) and *publishing* the information contained in the interim congestion information resource.
- (f) At intervals determined by *AEMO* under paragraph (e), *AEMO* must, in accordance with the *timetable*, update and *publish* the interim congestion information resource.
- (g) *Transmission Network Service Providers* must provide *AEMO* with such information as is requested by *AEMO* for inclusion in the interim congestion

information resource in accordance with paragraph (b) and such information is to be provided to *AEMO* in a form which clearly identifies *confidential information*.

- (h) If there has been a material change to the information provided by a *Transmission Network Service Provider* under paragraph (g), the *Transmission Network Service Provider* must provide *AEMO* with the revised information as soon as practicable.
- (i) Information contained in the interim congestion information resource which has been provided by, or has been derived from information provided by, a *Transmission Network Service Provider*:
  - (1) must represent the *Transmission Network Service Provider's* current intentions and best estimates regarding planned *network outages* at the time the information is made available;
  - (2) does not bind the *Transmission Network Service Provider* to comply with an advised *outage* program; and
  - (3) may be subject to change due to unforeseen circumstances outside the control of the *Transmission Network Service Provider*.
- (j) *AEMO* must not *publish confidential information* as part of, or in connection with, the interim congestion information resource.

## Part ZA Reliability and emergency reserve trader (2009 amendments)

### 11.31 Rules consequent on the making of the National Electricity Amendment (Improved RERT Flexibility and Short-notice Reserve Contracts) Rule 2009

#### 11.31.1 Definitions

For the purposes of this rule 11.31:

**Amending Rule** means the National Electricity Amendment (Improved RERT Flexibility and Short-notice Reserve Contracts) Rule 2009.

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

#### 11.31.2 Purpose

The purpose of this rule 11.31 is to provide transitional arrangements to facilitate *AEMO* contracting for *reserves* in relation to long, medium and short notice



situations to ensure reliability of *supply* and, where practicable, to maintain *power system security*.

### 11.31.3 Amendments to Reliability Panel's RERT Guidelines

- (a) Within two weeks of the commencement date, the *Reliability Panel* must, in respect of its *RERT guidelines* referred to in clause 3.20.8(c), develop and *publish* interim amendments with respect to matters relevant to *AEMO* contracting for *reserves* in relation to long, medium and short notice situations to ensure reliability of *supply* and, where practicable, to maintain *power system security*.
- (b) All relevant actions taken by the *Reliability Panel* up to two weeks after the commencement date for the purposes of developing and *publishing* the interim amendments to the *RERT guidelines* as required by paragraph (a) are taken to satisfy the equivalent actions required for the *RERT guidelines* under clause 3.20.8(b). For the avoidance of doubt, the *Reliability Panel* is not required to develop and *publish* the interim amendments to the *RERT guidelines* in accordance with clauses 8.8.3(d)-(l).
- (c) The interim amendments published under paragraph (a) will cease to apply when the *Reliability Panel* publishes amendments to its *RERT guidelines* in accordance with paragraph (d) of this clause but, for so long as they apply, references in rule 3.20 to the *RERT guidelines* are taken to include references to those interim amendments.
- (d) The *Reliability Panel* must, in respect of the *RERT guidelines* referred to in clause 3.20.8 and in accordance with that clause, develop and *publish* amendments by 30 June 2010 with respect to matters relevant to *AEMO* contracting for *reserves* in relation to long, medium and short notice situations as described in the *RERT guidelines* to ensure reliability of *supply* and, where practicable, to maintain *power system security*.

### 11.31.4 Amendments to AEMO's RERT procedures for exercising the RERT

- (a) Within four weeks of the commencement date, *AEMO* must, in respect of its procedures referred to in clause 3.20.7(e), develop and *publish* interim amendments with respect to measures to contract for *reserves* in relation to long, medium and short notice situations as described in interim amendments to the *RERT guidelines published* in accordance with clause 11.31.3(a), to ensure reliability of *supply* and, where practicable, to maintain *power system security*.
- (b) For the purposes of clause 11.31.4(a):
  - (1) *AEMO* is not required to develop, *publish* or amend the interim amendments to its relevant procedures in accordance with the *Rules consultation procedures*;

- (2) the interim amendments to *AEMO's* relevant procedures must take into account the *RERT principles* and interim amendments to the *RERT guidelines* referred to in paragraph (a);
  - (3) the interim amendments to the relevant procedures will cease to apply when *AEMO publishes* amendments to its procedures for the exercise of the *RERT* as required by paragraph (c); and
  - (4) for so long as those interim amendments to the relevant procedures apply, references in rule 3.20 to the procedures referred to in clause 3.20.7(e) are taken to include references to those interim amendments.
- (c) *AEMO* must, in respect of its procedures referred to in clause 3.20.7(e) and in accordance with that clause, develop and *publish* amendments by 30 November 2010, with respect to measures to contract for *reserves* in relation to long, medium and short notice situations, as described in amendments to the *RERT guidelines published* in accordance with clause 11.31.3(d), to ensure reliability of *supply* and, where practicable, to maintain *power system security*.

## Part ZB Early Application of Market Impact Parameters

### 11.32 Rules consequent on the making of the National Electricity Amendment (Early Implementation of Market Impact Parameters) Rule 2010

#### 11.32.1 Definitions

For the purposes of this rule 11.32:

**Amending Rule** means the National Electricity (Early Implementation Market Impact Parameters) Rule 2010.

**cap** has the meaning given in the *service target performance incentive scheme* dated March 2008.

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

**market impact component of the service target performance incentive scheme** means the market impact component described in the *service target performance incentive scheme* dated March 2008.

**financial incentive** has the meaning given in the *service target performance incentive scheme* dated March 2008.

**performance target** has the meaning given in the *service target performance incentive scheme* dated March 2008.

**Powerlink** means the Queensland Electricity Transmission Corporation Limited (ACN 078 849 233), trading as Powerlink Queensland.

**proposal** means the proposal described in clause 11.32.3(d).

**proposed start date** means a commencement date for the early application of the market impact component of the *service target performance incentive scheme* proposed by a *Transmission Network Service Provider* under clause 11.32.3(d).

**start date** means the commencement date for the early application of the market impact component of the *service target performance incentive scheme* as decided by the *AER* under clause 11.32.3(l).

**transitional regulatory control period** means, in respect of Powerlink, the *regulatory control period* commencing on 1 July 2007 and ending on 30 June 2012.

## 11.32.2 Purpose

The purpose of this rule 11.32 is to allow certain *Transmission Network Service Providers* to seek the earlier application of the market impact component of the *service target performance incentive scheme* from the *AER* than permitted under clause 6A.7.4(f).

## 11.32.3 Early application of the market impact component of the service target performance incentive scheme

- (a) The Amending Rule applies to a *Transmission Network Service Provider* which will be subject to the market impact component of the *service target performance incentive scheme* during its next *regulatory control period*:
  - (1) for the *regulatory control period* which commenced before the commencement date and as at the commencement date, has not ended; or
  - (2) in respect of Powerlink, for the transitional regulatory control period.
- (b) If the *AER* publishes a *service target performance incentive scheme* after the commencement date which is different to the *service target performance incentive scheme* dated March 2008, a *Transmission Network Service Provider* may not apply for the early application of the market impact component of the *service target performance incentive scheme* under the Amending Rule.
- (c) If Powerlink applies for the early application of the market impact component of the *service target performance incentive scheme* under the Amending Rule, the financial incentive under the market impact component of the *service target performance incentive scheme* must be calculated by the *AER* using the maximum allowed revenue set out in the *AER's* decision on Powerlink's transmission network revenue cap dated 14 June 2007, as amended by the *AER* in accordance with the *Rules*.

### Submission of proposal

- (d) If a *Transmission Network Service Provider* seeks the earlier application of the market impact component of the *service target performance incentive scheme* than permitted under old clause 6A.7.4(f), the *Transmission Network Service Provider* must submit a proposal to the *AER* setting out:
  - (1) its proposed start date;
  - (2) if relevant, information on whether the *Transmission Network Service Provider* can apply the market impact component of the *service target performance incentive scheme* earlier than the proposed start date; and
  - (3) the proposed values for a performance target and a cap in accordance with the relevant requirements of the market impact component of the *service target performance incentive scheme*.
- (e) A *Transmission Network Service Provider's* proposal under paragraph (d) must be submitted at least 80 *business days* prior to the proposed start date.

**Preliminary examination and determinatino on compliance with relevant information requirements**

- (f) If the *AER* receives a proposal under paragraph (d), it must:
  - (1) make a determination on whether the proposal complies with the relevant information requirements of the submission guidelines in respect of the *service target performance incentive scheme*; and
  - (2) notify the *Transmission Network Service Provider* of its determination within 10 *business days* after receiving the proposal.
- (g) A determination referred to in paragraph (f) must be accompanied by written reasons that set out, where applicable:
  - (1) the respects in which the proposal does not comply with the relevant information requirements of the submission guidelines; and
  - (2) the requirements that have not been complied with.

**Revision of proposal**

- (h) If the *AER* notifies a *Transmission Network Service Provider* that its proposal does not comply with the relevant information requirements of the submission guidelines in a determination under paragraph (f), the *Transmission Network Service Provider*:
  - (1) must, within 10 *business days* after receiving that notice, submit a revised proposal in a form that complies with the relevant information requirements identified in that determination; and
  - (2) may only make changes to its proposal under paragraph (d) to address the matters raised in the determination made under paragraph (f).

- (i) The *AER* must, as soon as practicable, publish on the *AER*'s website and make available for public inspection at the *AER*'s public offices:
  - (1) the proposal, or any revised proposal, submitted under paragraphs (d) or (h), except to the extent that the submission guidelines provide that it will not be publicly disclosed, and, in that case, the relevant *Transmission Network Service Provider* has not otherwise consented; and
  - (2) an invitation for written submissions from any person on the proposal or any revised proposal (as the case may be) within a period specified by the *AER*, being a period not less than 10 business days from the date of publication of the invitation for submissions.
- (j) Any person may make a written submission to the *AER* on the proposal, or any revised proposal, within the period specified in the invitation referred to in paragraph (i).
- (k) The *AER* may *publish* an issues paper examining the issues raised in connection with the proposal, or any revised proposal, at the same time as, or subsequent to, publication of the invitation to make submissions referred to in paragraph (i).

#### **Making of final decision**

- (l) Subject to rule 6A.16(a), the *AER* must consider the proposal, or any revised proposal, submitted under paragraphs (d) or (h), and any written submissions made on the proposal, or any revised proposal, in its final decision and must make a final decision in relation to the proposal, or any revised proposal.
- (m) The *AER*'s final decision must be made in accordance with, and must comply with, the relevant requirements set out in paragraphs (n) - (s).

#### **Requirements relating to final decision**

- (n) A final decision under paragraph (l) is a decision by the *AER* on:
  - (1) the start date; and
  - (2) whether it approves or refuses to approve the proposed values for a performance target or a cap for the market impact component of the *service target performance incentive scheme*,  
  
setting out reasons for the decision.
- (o) The *AER* may make a decision on a start date which is different to the proposed start date, provided the start date is not later than the proposed start date.
- (p) In making a decision on a start date, the *AER* must take into consideration any information provided by the *Transmission Network Service Provider* in

its proposal, or revised proposal, on whether the *Transmission Network Service Provider* can apply the market impact component of the *service target performance* earlier than the proposed start date.

- (q) The *AER* must approve the proposed values for a performance target or a cap for the market impact component of the *service target performance incentive scheme* if it is satisfied that those values comply with the relevant requirements of the market impact component of the *service target performance incentive scheme*.
- (r) If the *AER*'s final decision is to refuse to approve the proposed values for a performance target or a cap for the market impact component of the *service target performance incentive scheme*, the *AER* must include in its final decision a substitute value which it reasonably considers will comply with the relevant requirements of the market impact component of the *service target performance incentive scheme*.
- (s) The market impact component of the *service target performance incentive scheme* will apply to the *Transmission Network Service Provider* who submitted a proposal under paragraph (d) from the start date.

#### **Notice of final decision**

- (t) The *AER* must, at least 1 *business day* before the start date, but not later than 20 *business days* before the proposed start date, *publish*:
  - (1) notice of the making of the final decision; and
  - (2) the final decision, including its reasons.

## **Part ZC Transparency of operating data**

### **11.33 Rules consequential on the making of National Electricity Amendment (Transparency of Operating Data) Rule 2010**

#### **11.33.1 Definitions**

For the purposes of this rule 11.33:

**Amending Rule** means the National Electricity Amendment (Transparency of Operating Data) Rule 2010.

**commencement date** means the date the Amending rule commences operation.

#### **11.33.2 Spot market operations timetable**

- (a) Clause 3.4.3(b) does not apply to an amendment of the *timetable* made by *AEMO* in accordance with paragraph (b).
- (b) By no later than 9 months after the commencement date, *AEMO* must amend the then current *timetable* as follows:

- (1) in the row of the *timetable* that relates to the information publication requirements under clause 3.13.4(n), omit the bullet point item “Inter-regional flows;” from the column headed “EVENT”;
  - (2) below the row in the *timetable* that relates to the information publication requirements under clause 3.13.4(n), insert the row in table 1;
  - (3) in the row of the *timetable* that relates to the information publication requirements under clause 3.13.4(q), omit all the text from the column headed “EVENT” and substitute “Publish dispatched generation, dispatched network service, dispatched load for each scheduled generating unit, semi-scheduled generating unit, scheduled network service and scheduled load respectively. Publish application of semi-dispatch cap to each semi-scheduled generating unit”; and
  - (4) omit the row of the *timetable* that relates to the information publication requirements under clause 3.13.4(r) and substitute the row in table 2.
- (c) Clause 3.4.3(c) applies to an amendment of the *timetable* made by AEMO in accordance with paragraph (b) as if the words "in accordance with paragraph (b)" in clause 3.4.3(c) were omitted and substituted with the words "in accordance with clause 11.32.2(b)".

**Table 1:**

Day + 1	ASA P after start of trading day	Publish for Day 0, inter-regional flows	AEM O	Participants	Day 0	Daily	Half hourly resolution	3.13.4(n1)
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**Table 2:**

Day 0	ASAP after start of dispatch interval	Publish actual generation of scheduled generating unit, semi-scheduled generating unit and non-scheduled generating	AEM O	Public	Current dispatch interval	Every 5 minutes	The actual generation is measured at the beginning of each dispatch interval.	3.13.4(r)
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		unit or non-scheduled generating system.						
		Publish actual network service for scheduled network service.						
		Publish actual load for scheduled load.						

## Part ZD Cost Recovery for Other Services Directions

### 11.34 Rules consequent on making of the National Electricity Amendment (Cost Recovery for Other Services Directions) Rule 2010

#### 11.34.1 Definitions

For the purposes of this rule 11.34:

**Amending Rule** means the National Electricity Amendment (Cost Recovery for Other Services Directions) Rule 2010.

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

**current funding of compensation** means any process initiated under the *Rules* or action taken which relies on or is referenced to old clause 3.15.7(d) or old clause 3.15.8(g) and is not completed by the commencement date.

**new clause 3.15.7(d)** means clause 3.15.7(d) of the *Rules* after the commencement date.

**new clauses 3.15.7A(a1) and (a2)** means clauses 3.15.7A(a1) and (a2) of the *Rules* after the commencement date.

**new clause 3.15.8(g) and (h)** means clauses 3.15.8(g) and (h) of the *Rules* after the commencement date.



**old clause 3.15.7(d)** means clause 3.15.7(d) of the *Rules* and all definitions in, and relevant provisions of, the *Rules* as in force immediately before the commencement date.

**old clause 3.15.8(g)** means clause 3.15.8(g) of the *Rules* and all definitions in, and relevant provisions of, the *Rules* as in force immediately before the commencement date.

#### **11.34.2 Period when Amending Rules applies to funding of compensation**

- (a) From the commencement date, in respect of any current funding of compensation:
  - (1) new clause 3.15.7(d), new clauses 3.15.7A(a1) and (a2) and new clauses 3.15.8(g) and (h) have no effect; and
  - (2) old clause 3.15.7(d) and old clause 3.15.8(g) continue to apply.

### **Part ZE Payments under Feed-in Schemes and Climate Change Funds**

#### **11.35 Rules consequential on the making of the National Electricity Amendment (Payments under Feed-in Schemes and Climate Change Funds) Rule 2010**

##### **11.35.1 Definitions**

For the purposes of this rule 11.35:

**Amending Rule** means the National Electricity Amendment (Payments under Feed-in Schemes and Climate Change Funds) Rule 2010.

**commencement date** means 1 July 2010.

**current regulatory control period** for a *Distribution Network Service Provider* means the *regulatory control period* that commenced before the commencement date and, as at the commencement date, has not ended.

**new clause 6.6.1A(d)(3)** means clause 6.6.1A of the *Rules* as in force immediately after the commencement date.

**new clauses 6.18.2(b)(6A) and (6B)** means clauses 6.18.2(b)(6A) and (6B) of the *Rules* as in force immediately after the commencement date.

**new clause 6.18.6(d)(3)** means clause 6.18.6(d)(3) of the *Rules* as in force immediately after the commencement date.

**new clause 6.18.7A** means clause 6.18.7A of the *Rules* as in force immediately after the commencement date.

**next regulatory control period** for a *Distribution Network Service Provider* means the *regulatory control period* that commences after the end of the current regulatory control period.

### 11.35.2 Application of recovery of jurisdictional scheme Rules

- (a) Subject to paragraph (h), a *Distribution Network Service Provider* is not required to comply with:
  - (1) new clause 6.18.2(b)(6A) and (6B); and
  - (2) new clause 6.18.7A(a) to (c),until the date that the *Distribution Network Service Provider* is required to submit a *pricing proposal* for the first *regulatory year* of the next regulatory control period.
- (b) Subject to paragraph (h), the first *pricing proposal* of a *Distribution Network Service Provider* that the new clause 6.18.6(d)(3) applies to is the *pricing proposal* for the second or subsequent *regulatory year* of the next regulatory control period.
- (c) A *Distribution Network Service Provider* may by written notice to the AER at least 20 *business days* before the date that a *pricing proposal* is required to be submitted under clause 6.18.2(a)(2) in respect of a *regulatory year* in its current regulatory control period, elect to submit a *pricing proposal* for that *regulatory year* that complies with new clauses 6.18.2(b)(6A) and (6B) and new clause 6.18.7A(a) to (c).
- (d) An election under paragraph (c) is valid if:
  - (1) the election is made in relation to the second or subsequent *regulatory year* of its current regulatory control period;
  - (2) the *Distribution Network Service Provider* has complied with clause 11.35.3 and the AER has made a decision or is taken to have made a decision under new clause 6.6.1A(e) or (f) (whichever is applicable) in respect of each *jurisdictional scheme* under which the *Distribution Network Service Provider* has *jurisdictional scheme obligations*; and
  - (3) if and to the extent that any forecast or estimate of amounts payable under *jurisdictional schemes* has been included as forecast operating expenditure in the *Distribution Network Service Provider's* distribution determination for the current regulatory control period, the AER has agreed to a revocation and substitution of the distribution determination under clause 11.35.4.
- (e) Not later than 10 *business days* after receiving a notice under paragraph (c), the AER must notify the *Distribution Network Service Provider*:
  - (1) whether it accepts the election made under paragraph (c); and

- (2) if it does not accept the election under paragraph (c), the reasons for that decision.
- (f) If the *AER* has not notified the *Distribution Network Service Provider* under paragraph (e) within 10 *business days* of receiving a notice under paragraph (c), the *AER* is taken to have accepted the election.
- (g) The *AER* must accept an election under paragraph (e) if it is valid under paragraph (d).
- (h) If the *AER* accepts a *Distribution Network Service Provider's* election under paragraph (e) or is taken to have accepted the election under paragraph (f) (whichever is applicable), the *Distribution Network Service Provider* must comply with:
  - (1) new clauses 6.18.2(b)(6A) and (6B) and new clause 6.18.7A(a) to (c) in respect of the *pricing proposal* for each *regulatory year* of the current regulatory control period that commences after the acceptance of an election under paragraph (e) or (f) (whichever is applicable); and
  - (2) new clause 6.18.6(d)(3) in respect of each *regulatory year* of the current regulatory control period in relation to which an election has been accepted under paragraph (e) or (f) (whichever is applicable).

### 11.35.3 Reporting on jurisdictional schemes

- (a) If during the current regulatory control period a *Distribution Network Service Provider* is or becomes subject to *jurisdictional scheme obligations* under a *jurisdictional scheme*, the *Distribution Network Service Provider* may request the *AER* to determine how it is to report to the *AER* on its recovery of *jurisdictional scheme amounts* under that scheme for each *regulatory year* of the *regulatory control period* and on the adjustments to be made to subsequent *pricing proposals* to account for over or under recovery of those amounts.
- (b) To make a request under paragraph (a), a *Distribution Network Service Provider* must submit to the *AER* a written statement which specifies:
  - (1) the name of the relevant *jurisdictional scheme*;
  - (2) the date the *Distribution Network Service Provider* became subject to *jurisdictional scheme obligations*; and
  - (3) details of how the *Distribution Network Service Provider* proposes to:
    - (i) estimate the *jurisdictional scheme amounts* for the relevant *jurisdictional scheme* for the purposes of new clause 6.18.7A(b);
    - (ii) carry out any adjustments to *jurisdictional scheme amounts* for the relevant *jurisdictional scheme* for the purposes of new clause 6.18.7A(b); and

- (iii) report to the *AER* on the recovery process under new clause 6.18.7A(a) and (b).
- (c) If a *Distribution Network Service Provider* makes a request under paragraph (a) and provides a statement under paragraph (b):
  - (1) clauses 6.6.1A(c) to (f) apply to the *AER* and *Distribution Network Service Provider* as if references to “a statement under paragraph (b)” in those clauses was a reference to “a statement under clause 11.35.3(b)”; and
  - (2) the *AER* and *Distribution Network Service Provider* are bound to comply with clauses 6.6.1A(c) to (f) in respect of the determination requested under paragraph (a) as if it had been requested under new clause 6.6.1A(a) and a statement had been provided in accordance with new clause 6.6.1A(b).

#### **11.35.4 Revocation and substitution of distribution determination for jurisdictional scheme recovery**

- (a) The *AER* may revoke a distribution determination for a *Distribution Network Service Provider* during the current regulatory control period if:
  - (1) a forecast or estimate of amounts to be paid, credited or reimbursed under one or more *jurisdictional schemes* has been included in the *Distribution Network Service Provider's* forecast operating expenditure in its distribution determination (as adjusted under clause 6.6.1, if applicable) for the current regulatory control period; and
  - (2) the *Distribution Network Service Provider* gives the *AER* written notice that it intends to make an election under clause 11.35.2(c).
- (b) If the *AER* revokes a distribution determination under paragraph (a), the *AER* must make a new distribution determination in substitution for the revoked determination to apply for the remainder of the *regulatory control period* for which the revoked determination was to apply.
- (c) If the *AER* revokes a distribution determination under paragraph (a), the substituted determination must only vary from the revoked determination to the extent necessary to correct for the amounts referred to in subparagraph (a)(1).
- (d) The *AER* may only revoke and substitute a distribution determination under this clause 11.35.4, if it has first consulted with the relevant *Distribution Network Service Provider* and such other persons as it considers appropriate.

## Part ZF Transitional Arrangements for Ministerial Smart Meter Roll Out Determinations

### 11.36 Ministerial Smart Meter Roll Out Determinations

#### 11.36.1 Definitions

In this rule:

**relevant commencement date**, for a relevant *metering installation*, means the day on which the Ministerial smart meter roll out determination that applies to the relevant *metering installation* takes effect.

**relevant metering installation** has the meaning given by rule 11.36.2.

**specified amount** means the amount assigned to variable "y" in accordance with S7.2.3 in relation to a participating jurisdiction.

**supply point** means a supply point:

- (1) that is a *connection point* connected to the distribution system of a regulated distribution system operator; and
- (2) through which the regulated distribution system operator is required to provide smart metering services in accordance with a Ministerial smart meter roll out determination.

**volume consumption** means the volume of *energy* consumed by a customer through the relevant supply point calculated in accordance with S7.2.3.

#### 11.36.2 Meaning of relevant metering installation

- (a) For the purpose of this rule, a **relevant metering installation** is a *metering installation* for a supply point in respect of which the volume consumption of the customer is less than the specified amount.
- (b) For the purpose of this rule, a **relevant metering installation** does not include:
  - (1) a *metering installation* installed for a supply point before the relevant commencement date in respect of which a *Market Participant* is the *responsible person*; or;
  - (2) a *metering installation* referred in paragraph (a) that is installed for the supply point referred to in that paragraph on and after the relevant commencement date in accordance with the ordinary replacement cycle of that *Market Participant*; or
  - (3) a *metering installation* located at a *high voltage connection point*.

### 11.36.3 Period of application of rule to relevant metering installation

This rule:

- (a) applies to a relevant *metering installation* on the day the Ministerial smart meter roll out determination that applies to the relevant *metering installation* takes effect; and
- (b) ceases to apply to a relevant *metering installation* on the day the Ministerial smart meter roll out determination that applies to the relevant *metering installation* ceases to have effect.

### 11.36.4 Designation of responsible person

Despite clauses 7.2.2 and 7.2.3, the *responsible person* for a relevant *metering installation* is the regulated distribution system operator to whom the Ministerial smart meter roll out determination (that applies to that relevant *metering installation*) applies.

### 11.36.5 [Deleted]

### 11.36.6 [Deleted]

## Part ZG Provision of Metering Data Services and Clarification of Existing Metrology Requirements

### 11.37 Rules consequential on the making of the National Electricity Amendment (Provision of Metering Data Services and Clarification of Existing Metrology Requirements) Rule 2010

#### 11.37.1 Definitions

For the purposes of this rule 11.37:

**Amending Rule** means the National Electricity Amendment (Provision of Metering Data Services and Clarification of Existing Metrology Requirements) Rule 2010.

**commencement date** means 16 December 2010.

#### 11.37.2 Commencement of special site or technology related conditions

- (a) *AEMO* is not required to comply with the obligation set out in clause 7.2.4A(c) until 6 months after the commencement date (but may comply with that obligation any time earlier than 6 months).
- (b) Prior to the publication of the document referred to in clause 7.2.4A(c)(1), *AEMO* may notify a *responsible person* or a *financially responsible Market Participant*, as appropriate, of the existence of a special site or technology

related condition and that notification will operate to fulfil the requirement of clauses 7.2.4A(c)(1) and 7.2.4A(c)(2).

### 11.37.3 Initial service level procedures

- (a) *AEMO* is not required to comply with the obligation set out in clause 7.14.1A(b) until 9 months after the commencement date (but may comply with that obligation any time earlier than 9 months).
- (b) *AEMO* must establish and *publish* the *initial service level procedures* in accordance with clauses 7.1.3 and 7.14.1A within 9 months after the commencement date.
- (c) Prior to the publication of the *initial service level procedures*, *AEMO* may use service level requirements that are *published* and in common use by the *responsible person*, the *Metering Provider*, and the *Metering Data Provider*.
- (d) If, during the period between the commencement date and the *publication* of the *initial service level procedures*, *AEMO*:
  - (1) receives a request from a *responsible person*, a *Metering Provider* or a *Metering Data Provider*; and
  - (2) if that request relates to:
    - (i) an inconsistency between the *published* service level requirements and the requirements in clause 7.14.1A(c); or
    - (ii) an inadequacy in the *published* service level requirements when compared to the requirements in clause 7.14.1A(c),

*AEMO* must:

- (3) make a determination in regard to that request in accordance with clause 7.1.4(e) if, in *AEMO*'s reasonable opinion, the request referred to in paragraph (d) relates to matters that warrant resolution prior to *publication* of the *initial service level procedures*.
- (e) For the purpose of this clause 11.37.2, the reference to procedure in clause 7.1.3(e) is a reference to any document that carries the determination specified in paragraph (d) (but not to the *service level procedures* referred to in clause 7.14.1A(b)).

## Part ZH Spot Market Operations Timetable

### 11.38 Rules consequential on the making of National Electricity Amendment (Amendments to PASA-related Rules) Rule 2010

#### 11.38.1 Definitions

For the purposes of this rule 11.38:

**Amending rule** means the National Electricity Amendment (Amendments to PASA-related Rules) Rule 2010.

**commencement date** means the date the Amending Rule commences operation.

### 11.38.2 Spot market operations timetable

- (a) Clause 3.4.3(b) does not apply to an amendment of the *timetable* made by *AEMO* in accordance with paragraph (b).
- (b) By no later than 9 months after the commencement date, *AEMO* must amend the then current *timetable* as follows:
  - (1) in Table 4.2 PASA and Table 4.4 Market Information of the *timetable*, omit "day 8 days" and substitute "Sunday" wherever occurring; and
  - (2) in Table 4.2 PASA and Table 4.4 Market Information of the *timetable*, omit "Current system targets to cover additional days starting from next Sunday." wherever occurring.
- (c) Clause 3.4.3(c) applies to an amendment of the *timetable* made by *AEMO* in accordance with paragraph (b) as if the words "in accordance with paragraph (b)" in clause 3.4.3(c) were omitted and substituted with the words "in accordance with clause 11.38.2(b)".

## Part ZI DNSP Recovery of Transmission-related Charges

### 11.39 Rules consequential on the making of the National Electricity Amendment (DNSP Recovery of Transmission-related Charges) Rule 2011

#### 11.39.1 Definitions

For the purposes of this rule 11.39:

**Amending Rule** means the DNSP Recovery of Transmission-related Charges Rule 2011.

**Bairnsdale network support payments** means payments made by SP AusNet to the owners of the Bairnsdale Power Station under the *network support agreement* of 2001, but only to the extent those payments have been approved by the Essential Services Commission of Victoria established by the *Essential Services Commission Act 2001* (Vic), or its succeeding body assuming its powers and functions.

**commencement date** means the date that the Amending Rule commences operation.

**current regulatory control period** for a *Distribution Network Service Provider* means the *regulatory control period* that commenced before the commencement date and, as at the commencement date, has not ended.



**Energex** means Energex Limited (ACN 078 849 055).

**Energex transitional charges** means charges levied by Powerlink on Energex in respect of *entry services* and *exit services* for the *connection* of Energex's 110kV *network* at Archerfield.

**Ergon Energy** means Ergon Energy Corporation Limited (ACN 087 646 062).

**Ergon Energy connection points** means the *connection* at Oakey Power Station to supply Oakey town, the *connection* at Queensland Nickel, the *connection* at Stoney Creek for the Sunwater pump sites and the *connection* at King Creek for the Sunwater pump sites.

**Ergon Energy transitional charges** means charges levied on Ergon Energy for use of the 220kV *network* which supplies the Cloncurry township as approved by the AER in its distribution determination for the current regulatory control period, and charges levied by Powerlink on Ergon Energy for *entry services* and *exit services* at the Ergon Energy connection points.

**Powerlink** means Queensland Electricity Transmission Corporation Limited (ACN 078 849 233).

**SP AusNet** means SPI Electricity Pty Ltd (ABN 91 064 651 118).

**Victorian Distribution Network Service Provider** means a *Distribution Network Service Provider* for a *distribution network* situated wholly or partly within Victoria for whom a distribution determination took effect on 1 January 2011.

#### 11.39.2 Recovery by Victorian distribution network service providers during current regulatory control period

- (a) Subject to the remainder of this clause, a Victorian Distribution Network Service Provider may, in any of its *pricing proposals* for the remainder of the current regulatory control period, provide for the recovery of any additional *designated pricing proposal charges* which it could have passed on to customers in the first *regulatory year* of the current regulatory control period as if the Amending Rule were operative during that first *regulatory year*.
- (b) A Victorian Distribution Network Service Provider may recover the total amount of charges described in paragraph (a) during a single *regulatory year* or over the course of several *regulatory years* during the current regulatory control period.
- (c) A Victorian Distribution Network Service Provider must not recover in total under this clause any more than the additional *designated pricing proposal charges* referred to in paragraph (a).
- (d) The additional charges recovered under paragraph (a) must be adjusted for an appropriate cost of capital that is consistent with the rate of return used in

the distribution determination for the *Distribution Network Service Provider* for the current regulatory control period.

### **11.39.3 Recovery by Victorian distribution network service providers for shared network augmentations**

The definition of *designated pricing proposal charges* as it applies to a Victorian Distribution Network Service Provider during the current regulatory control period includes charges in respect of *negotiated transmission services* levied by AEMO on the Victorian Distribution Network Service Provider to recover costs incurred by AEMO in *augmenting* the relevant *declared shared network* to facilitate a *connection* between the *declared shared network* and a *distribution network*.

### **11.39.4 Bairnsdale network support agreement**

The definition of *designated pricing proposal charges* as it applies to SP AusNet includes Bairnsdale network support payments.

### **11.39.5 Approval of pricing proposal**

For the purposes of determining whether to approve a *pricing proposal* under clause 6.18.8, the *AER* must exclude from its consideration any part of a distribution determination for a current regulatory control period which does not permit a *Distribution Network Service Provider* to recover charges which are recoverable under clause 6.18.7.

### **11.39.6 Ergon Energy transitional charges**

The definition of *designated pricing proposal charges* as it applies to Ergon Energy includes Ergon Energy transitional charges, but only for the current regulatory control period.

### **11.39.7 Energex transitional charges**

The definition of *designated pricing proposal charges* as it applies to Energex includes Energex transitional charges, but only for the current regulatory control period.

## **Part ZJ Network Support and Control Ancillary Services**

### **11.40 Rules consequential on the making of the National Electricity Amendment (Network Support and Control Ancillary Services) Rule 2011**

#### **11.40.1 Definitions**

For the purposes of this rule 11.40:

**Amending Rule** means the *National Electricity Amendment (Network Support and Control Ancillary Services) Rule 2011*.

**Existing NCAS contract** means an *ancillary services agreement* entered into between AEMO and a *Registered Participant* prior to the NSCAS commencement date whereby AEMO acquires NCAS from that *Registered Participant*.

**NCAS** means *network control ancillary services*, as that term was defined in the *Rules* immediately prior to the NSCAS commencement date.

**NMAS tender guidelines** has the meaning given in clause 3.11.5(a).

**NSCAS commencement date** means the date of the commencement of the Amending Rule.

**NSCAS description** has the meaning given in clause 3.11.4(a1).

**NSCAS quantity procedure** has the meaning given in clause 3.11.4(a1).

**AEMO NSCAS Acquisition Process commencement date** is 5 April 2012.

**Regional benefit ancillary services procedures** has the meaning given in clause 3.15.6A(c1).

#### **11.40.2 Purpose**

The purpose of this rule 11.40 is to provide transitional arrangements to facilitate AEMO's transition from the framework for the acquisition of NCAS prior to the NSCAS commencement date to the framework for the acquisition of NSCAS initiated under clause 3.11.3.

#### **11.40.3 Existing NCAS contracts to continue**

- (a) AEMO may continue to acquire NCAS under existing NCAS contracts and may extend the term of any existing NCAS contract for such period as is agreed between AEMO and each counterparty to the relevant existing NCAS contract.
- (b) After the NSCAS commencement date, an existing NCAS contract is to be regarded as an *ancillary services agreement* for the provision of NSCAS that does not benefit a specific *region* for the purposes of clauses 3.15.6A (c1) – (c9) (including during any period that the existing NCAS contract is extended under paragraph (a)).

#### **11.40.4 Amendments to existing guidelines**

- (a) AEMO must amend the NMAS tender guidelines and the guidelines for the *dispatch* of *network support and control ancillary services* under clause 3.11.6(d) to take into account the Amending Rule with those amendments to take effect from AEMO NSCAS Acquisition Process commencement date.

- (b) Any action taken by *AEMO* prior to the AEMO NSCAS Acquisition Process commencement date for the purpose of amending the NMAS tender guidelines and the guidelines for the *dispatch of network support and control ancillary services* as a result of the Amending Rule is taken to satisfy any equivalent actions required under the *Rules*.

#### **11.40.5 New procedures**

- (a) *AEMO* must develop and *publish* the NSCAS description and the NSCAS quantity procedure to take into account the Amending Rule and to take effect from the NSCAS commencement date.
- (b) *AEMO* must develop and *publish* the regional benefit ancillary services procedures to take into account the Amending Rule and to take effect from the AEMO NSCAS Acquisition Process commencement date.
- (c) Any action taken by *AEMO* prior to the NSCAS commencement date for the purpose of developing the NSCAS description, NSCAS quantity procedure and the regional benefit ancillary services procedures as a result of the Amending Rule is taken to satisfy any equivalent actions required under the *Rules*.

#### **11.40.6 Decisions and actions taken prior to Amending Rule**

All decisions and actions taken by *AEMO* prior to the NSCAS commencement date in anticipation of the commencement of the Amending Rule are taken to satisfy the equivalent actions required after the NSCAS commencement date and continue to have effect for that purpose.

### **Part ZK Application of Dual Marginal Loss Factors**

#### **11.41 Rules consequential on the making of the National Electricity Amendment (Application of Dual Marginal Loss Factors) Rule 2011**

##### **11.41.1 Definitions**

For the purposes of this rule 11.41:

**Amending Rule** means the National Electricity Amendment (Application of Dual Marginal Loss Factors) Rule 2011.

**commencement date** means the date that the Amending Rule commences operation.

**relevant financial year** means the *financial year* that commences on 1 July 2011.

#### **11.41.2 Amendments to loss factor methodology**

If *AEMO*, prior to the commencement date and for the purpose of amending the methodology referred to in clause 3.6.2(d) as a result of the Amending Rule, has taken steps equivalent to those required by the *Rules consultation procedures*, then it will be taken to have complied with those steps for the purposes of clause 3.6.2(d).

#### **11.41.3 Procedure applying dual intra-regional loss factors in central dispatch and spot market transactions**

- (a) Despite clause 3.6.2(d1), *AEMO* may determine a procedure for the purpose of that clause without consulting with *Registered Participants*.
- (b) By no later than 30 June 2012, *AEMO* must determine and publish a procedure for the purpose of clause 3.6.2(d1) following consultation with *Registered Participants*.

#### **11.41.4 Publication of intra-regional loss factors**

- (a) Clause 3.6.2(f1) does not apply in respect of the *intra-regional loss factors* for the relevant financial year and any *intra-regional loss factors published* by *AEMO* on 1 April 2011 in compliance with clause 3.6.2(f1) will not apply for the relevant financial year unless they are *published* again by *AEMO* in accordance with paragraph (b).
- (b) *AEMO* must *publish* on or before 30 June 2011 the *intra-regional loss factors* revised under clause 3.6.2(f) and to apply for the relevant financial year.
- (c) For the avoidance of doubt, paragraph (b) does not require *AEMO* to recalculate any *intra-regional loss factors* that were previously *published* except where this is necessary as a result of a change to the methodology referred to in clause 3.6.2(d).

### **Part ZL Tasmania Tranche 5a Procedure Changes**

#### **11.42 Rules consequential on the making of the National Electricity Amendment (Tasmania Tranche 5a Procedure Changes) Rule 2011**

##### **11.42.1 Definitions**

For the purposes of this rule 11.42:

**Relevant Procedure** means each of:

- (a) the *Metrology Procedure*;
- (b) the *Market Settlement and Transfer Solution Procedures*; and

- (c) the *B2B Procedures*.

#### 11.42.2 AEMO may amend Relevant Procedures

- (a) Subject to paragraphs (b) and (c), *AEMO* may amend any Relevant Procedure without complying with any provisions of these *Rules* that specifies a process for amendment of that Relevant Procedure.
- (b) *AEMO* may only amend a Relevant Procedure under paragraph (a):
- (1) prior to 31 July 2011; and
  - (2) if the amendment:
    - (i) is required for the purpose of introducing contestability for *connection points* located in the Tasmanian *region* with annual consumption between 50 and 150 MWh; and
    - (ii) does not affect the manner in which the Relevant Procedure applies in any *participating jurisdiction* other than Tasmania.
- (c) If *AEMO* amends a Relevant Procedure under this clause 11.42.2, it must *publish* the amended Relevant Procedure as soon as practicable but in any event no later than the date that the amendments to the Relevant Procedure takes effect.

### Part ZM Application and Operation of Administered Price Periods

#### 11.43 Rules consequential on the making of National Electricity Amendment (Application and Operation of Administered Price Periods) Rule 2011

##### 11.43.1 Definitions

For the purposes of this rule 11.43:

**Amending Rule** means the National Electricity Amendment (Application and Operation of Administered Price Periods) Rule 2011.

**APC Schedule** means the schedule the *AEMC* is required to publish under clause 3.14.1(a).

**commencement date** means the date Schedules 1 and 3 of the Amending Rule commence operation.

**First APC Schedule** means the Administered Price Cap Schedule dated 20 May 2008 published by the *AEMC* under clause 3.14.1(a).

### 11.43.2 Administered Price Cap Schedule

- (a) As soon as practicable, but in any event within 20 *business days* of the commencement date, the *AEMC* must amend the First APC Schedule in accordance with paragraph (b) and publish the amended APC Schedule on its website.
- (b) The *AEMC* must amend the First APC Schedule by:
  - (1) omitting "20 May 2008" and substituting the date on which the amended APC Schedule is published by the *AEMC*;
  - (2) omitting "and market ancillary service prices" and substituting ", *dispatch prices and ancillary service prices*";
  - (3) omitting "This schedule will become effective" and substituting "The *administered price cap* specified in this schedule became effective"; and
  - (4) including at the end of the Schedule notes to the effect that:
    - (i) the First APC Schedule developed and published by the *AEMC* under clause 3.14.1(a) was dated 20 May 2008; and
    - (ii) the First APC Schedule was varied by the *AEMC* pursuant to the Amending Rule.
- (c) The requirement in clause 3.14.1(a) that the *AEMC* comply with the *Rules consultation procedures* when developing, authorising and *publishing* an APC Schedule does not apply to amendments made to the APC Schedule in accordance with this clause 11.43.2.

#### Note

Part ZN of Chapter 11 (including rule 11.44) will be inserted by the *National Electricity Amendment (Expiry of Reliability and Emergency Reserve Trader) Rule 2012 No. 1* which commences on 1 July 2016.

## Part ZO Negative Intra-regional Settlements Residue

### 11.45 Rules consequential on the making of National Electricity Amendment (Negative Intra-regional Settlements Residue) Rule 2012

#### 11.45.1 Definitions

For the purposes of this rule 11.45:

**amended clause 3.6.5(a)** means clause 3.6.5(a) as amended by the Amending Rule.

**Amending Rule** means the National Electricity Amendment (Negative Intra-regional Settlements Residue) Rule 2012.

**commencement date** means 5 April 2012.

**negative settlements residue procedure** means the payment time, interval and payment method for settlement of negative *settlements residue* amounts and interest cost amounts for unrecovered negative *settlements residue* amounts.

**old clause 3.6.5(a)** means clause 3.6.5(a) as in force immediately before the commencement date.

#### **11.45.2 Recovery of negative settlements residue prior to consultation under the Amending Rule**

Until such time as *AEMO* has determined a negative settlements residue procedure under amended clause 3.6.5(a) that relates to both negative *inter-regional* and *intra-regional settlements residue* amounts, *AEMO* must recover:

- (a) negative *intra-regional settlements residue* amounts in accordance with old clause 3.6.5(a) and clause 3.15.16; and
- (b) negative *inter-regional settlements residue* amounts in accordance with old clause 3.6.5(a).

#### **11.45.3 First consultation on negative intra-regional settlements residue procedure**

- (a) Prior to commencing its consultation with *Transmission Network Service Providers* under amended clause 3.6.5(a) on the first negative settlements residue procedure that relates to both negative *inter-regional* and *intra-regional settlements residue* amounts, *AEMO* must notify each *Transmission Network Service Provider*:
  - (1) that it intends to commence the consultation;
  - (2) how it plans to conduct the consultation; and
  - (3) that if a *Transmission Network Service Provider* wishes the consultation to be conducted in accordance with the *Rules consultation procedures*, it must notify *AEMO* within one week of the notice under this paragraph (a).
- (b) If within one week of the notice under paragraph (a) *AEMO* receives a notice from a *Transmission Network Service Provider* under paragraph (a)(3), then *AEMO* must consult with *Transmission Network Service Providers* on the negative settlements residue procedure in accordance with the *Rules consultation procedures*.



- (c) If within one week of the notice under paragraph (a) *AEMO* has not received a notice from a *Transmission Network Service Provider* under paragraph (a)(3), then *AEMO* may consult on the negative settlements residue procedure as indicated in its notice under paragraph (a).

## Part ZP Interim Connection Charging Rules

### 11.46 Rules consequential to the insertion of Chapter 5A by the National Electricity (National Energy Retail Law) Amendment Rule 2012

#### Division 1 Preliminary

##### 11.46.1 Definitions

In this Part:

**ACT distributor** means *ActewAGL Distribution*, a partnership of *ACTEW Distribution Ltd* (ACN 073 025 224) and *Jemena Networks (ACT) Pty Ltd* (ACN 008 552 663).

**established distributor** means any of the following *Distribution Network Service Providers*:

- (a) an ACT distributor; or
- (b) a NSW distributor; or
- (c) a QLD distributor; or
- (d) a SA distributor; or
- (e) a Tasmanian distributor; or
- (f) a Victorian distributor.

**NSW distributor** means any of the following:

- (a) *Essential Energy* (established under the *Energy Services Corporation Act 1995* (NSW));
- (b) *Endeavour Energy* (established under the *Energy Services Corporation Act 1995* (NSW));
- (c) *Ausgrid* (established under the *Energy Services Corporation Act 1995* (NSW));

**interim connection charging rules (ICCR)** means the *rules* prescribed in this Part.

**QLD distributor** means either of the following:

- (a) Ergon *Energy* Corporation Limited (ACN 087 646 062);
- (b) Energex Ltd (ACN 078 849 055).

**relevant provisions** means Chapter 5A and Part DA of Chapter 6.

**SA distributor** means ETSA Utilities (ABN 13 332 330 749) a partnership of Spark Infrastructure (No. 1) Pty Ltd (ACN 091 142 380), Spark Infrastructure (No.2) Pty Ltd (ACN 091 143 038), Spark Infrastructure (No. 3) Pty Ltd (ACN 091 142 362), CKI Utilities Development Ltd (ARBN 090 718 880) and Pai Utilities Development Ltd (ARBN 090 718 951)

**start date** means the date when these interim *connection charging rules* come into operation.

**Tasmanian distributor** means Aurora *Energy* Pty Ltd (ACN 082 464 622).

**transition date** means for each distributor the date on which the transition period for that distributor ends.

**transition period** means:

- (a) for the ACT distributor – the period from the start date to the actual commencement date of the *regulatory control period* due to commence on 1 July 2014; and
- (b) for a NSW distributor – the period from the start date to the actual commencement date of the *regulatory control period* due to commence on 1 July 2014; and
- (c) for a QLD distributor – the period from the start date to the actual commencement date of the *regulatory control period* due to commence on 1 July 2015; and
- (d) for the SA distributor – the period from the start date to the actual commencement date of the *regulatory control period* due to commence on 1 July 2015; and
- (e) for the Tasmanian distributor – the period from the start date to the actual commencement date of the *regulatory control period* due to commence on 1 July 2017; and
- (f) for a Victorian distributor – the period from the start date to the actual commencement date of the *regulatory control period* due to commence on 1 January 2016.

**Victorian distributor** means any of the following:

- (a) United *Energy Distribution* Pty Ltd (ACN 064 651 029);
- (b) Jemena Electricity *Networks* (Vic) Ltd (ACN 064 651 083);

- (c) Citipower Pty (ACN 064 651 056);
- (d) Powercor Australia Ltd (ACN 064 651 109);
- (e) SPI Electricity Pty Ltd (ACN 064 651 118)

#### 11.46.2 Extended meaning of some terms

During the transition period:

- (a) a *basic connection service* includes not only a *connection service* for which a *model standing offer* has been approved by the *AER* (see paragraph (c) of the definition in clause 5A.A.1) but also one for which the *AER*'s approval of a *model standing offer* is not required; and
- (b) a *standard connection service* includes not only a *connection service* for which a *model standing offer* has been approved by the *AER* (see definition in clause 5A.A.1) but also one for which the *AER*'s approval of a *model standing offer* is not required; and
- (c) a *model standing offer* includes a document prepared and *published* by an established distributor, without the *AER*'s approval, as a *model standing offer* to have effect during the transition period (but not beyond the end of that period).

#### 11.46.3 Transitional operation of relevant provisions

- (a) During the transition period, the relevant provisions operate subject to the exclusions, qualifications and modifications prescribed by this Part.
- (b) However, the relevant provisions operate without the exclusions, qualifications and modifications prescribed by this Part insofar as they relate to:
  - (1) a period beyond the transition period; or
  - (2) a person (such as a new entrant to the industry) that is not an established distributor.

##### Example

An established distributor who submits a *regulatory proposal* for the *regulatory control period* that follows on the distributor's transition period is bound by the relevant provisions (without exclusion, qualification or modification) in relation to the *regulatory proposal* even though the proposal is submitted during the transition period.

- (c) A *transaction* commenced by or with an established distributor during the transition period may be continued and completed after the transition period without regard to *changes* to the *rules* governing the *transaction* that take effect at the end of the transition period.

## Division 2 Jurisdictional differences

### 11.46.4 Exclusions, qualifications and modifications for ACT

During the transition period, the relevant provisions apply to, and in relation to, the ACT distributor subject to the following exclusions, qualifications and modifications:

#### Connection Policy

- (a) A document, prepared by the ACT distributor and *published* on the ACT distributor's website, will (although not approved by the *AER*) be taken to be the ACT distributor's *connection policy* for the purposes of the relevant provisions if:
  - (1) it sets out the circumstances in which *connection charges* are payable and the basis for determining the amount of such charges; and
  - (2) it applies and is consistent with:
    - (i) the Electricity *Network* Capital Contributions Code approved in 2007 by the ACT Independent Competition and Regulatory Commission under section 58 of the Utilities Act 2000 (ACT); and
    - (ii) the *AER's* final decision on the distribution determination for the Australian Capital Territory for the *regulatory years* 2009-10 to 2013-14 dated 28 April 2009.

#### Model standing offers (basic connection services)

- (b) A document, prepared by the ACT distributor and *published* on the ACT distributor's website, will (although not approved by the *AER*) be regarded as a *model standing offer* to provide *basic connection services* during the transition period if it complies with the requirements of clause 5A.B.2(b) as to its terms and conditions.
- (c) If, during the transition period, the *AER* approves a *model standing offer* for the same *basic connection services*, the approved *model standing offer* supersedes the former *model standing offer* under this clause.
- (d) The ACT distributor's obligation to have a *model standing offer* to provide *basic connection services* (clause 5A.B.1) operates during the transition period but the *AER's* approval of the *model standing offer* is not required until the transition date.
- (e) The ACT distributor's obligation to submit for the *AER's* approval a proposed *model standing offer* to provide *basic connection services* (Clause 5A.B.2(a)) does not arise until the ACT distributor is obliged to submit a *regulatory proposal* for the *regulatory control period* first commencing after the transition date.

**Model standing offer (standard connection services)**

- (f) A document, prepared by the ACT distributor and *published* on the ACT distributor's website, will (although not approved by the AER) be regarded as a *model standing offer* to provide *standard connection services* during the transition period if it complies with the requirements of clause 5A.B.4(c) as to its terms and conditions.
- (g) If, during the transition period, the AER approves a *model standing offer* for the same *standard connection services*, and the approved *model standing offer* is to take effect before the end of the transition period, the approved *model standing offer* supersedes the former *model standing offer*.
- (h) The ACT distributor may submit for the AER's approval a *model standing offer* to provide *standard connection services* (clause 5A.B.4) during the transition period but the AER's approval of the *standing offer* is not required until the transition date.

**Amendment of standing offers**

- (i) During the transition period, the ACT distributor may amend a standing offer to provide *basic connection services* or *standard connection services* during the transition period by *publishing* the amendments and the amended text on its website. (This paragraph applies during the transition period to the exclusion of clause 5A.B.6.)

**11.46.5 Exclusions, qualifications and modifications for NSW**

During the transition period, the relevant provisions apply to, and in relation to, NSW distributors subject to the following exclusions, qualifications and modifications:

**Connection Policy**

- (a) A document, prepared by a NSW distributor and *published* on the NSW distributor's website, will (although not approved by the AER) be taken to be the NSW distributor's *connection policy* for the purposes of the relevant provisions if:
  - (1) it sets out the circumstances in which *connection charges* are payable and the basis for determining the amount of such charges;
  - (2) it applies and is consistent with Determination No 1 of 2002 "Capital Contributions and Repayments for *Connections* to Electricity *Distribution Networks* in New South Wales" made by IPART under section 11(3) of the Independent Pricing and Regulatory Tribunal Act 1992 (NSW).

**Model standing offers (basic connection services)**

- (b) A document, prepared by a NSW distributor and *published* on the NSW distributor's website, will (although not approved by the AER) be regarded as a *model standing offer* to provide *basic connection services* during the

transition period if it complies with the requirements of clause 5A.B.2(b) as to its terms and conditions.

- (c) If, during the transition period, the *AER* approves a *model standing offer* for the same *basic connection services*, the approved *model standing offer* supersedes the former *model standing offer*.
- (d) A NSW distributor's obligation to have a *model standing offer* to provide *basic connection services* (clause 5A.B.1) operates during the transition period but the *AER*'s approval of the *standing offer* is not required until the transition date.
- (e) A NSW distributor's obligation to submit for the *AER*'s approval a proposed *model standing offer* to provide *basic connection services* (Clause 5A.B.2(a)) does not arise until the NSW distributor is obliged to submit a *regulatory proposal* for the *regulatory control period* first commencing after the transition date.

**Model standing offer (standard connection services)**

- (f) A document, prepared by a NSW distributor and *published* on the NSW distributor's website, will (although not approved by the *AER*) be regarded as a *model standing offer* to provide *standard connection services* during the transition period if it complies with the requirements of clause 5A.B.4(c) as to its terms and conditions.
- (g) If, during the transition period, the *AER* approves a *model standing offer* for the same *standard connection services*, the approved *model standing offer* supersedes the former *model standing offer*.
- (h) A NSW distributor may submit for the *AER*'s approval a *model standing offer* to provide *standard connection services* (clause 5A.B.4) during the transition period but the *AER*'s approval of the *standing offer* is not required until the transition date.

**Amendment of standing offers**

- (i) During the transition period, a NSW distributor may amend a standing offer to provide *basic connection services* or *standard connection services* during the transition period by *publishing* the amendments and the amended text on its website. (This paragraph applies during the transition period to the exclusion of clause 5A.B.6.)

**11.46.6 Exclusions, qualifications and modifications for Queensland**

During the transition period, the relevant provisions apply to, and in relation to, a QLD distributor subject to the following exclusions, qualifications and modifications:

### **Connection Policy**

- (a) If a QLD distributor has a capital contributions policy *published* under clause 11.16.10, that policy is, during the transition period, taken to be the QLD distributor's *connection policy* (although not approved as a *connection policy* by the AER).

### **Model standing offer (basic connection services)**

- (b) A document, prepared by a Queensland distributor and *published* on a Queensland distributor's website, will (although not approved by the AER) be regarded as a *model standing offer* to provide *basic connection services* during the transition period if it complies with the requirements of clause 5A.B.2(b) as to its terms and conditions.
- (c) The QLD distributor's obligation to submit for the AER's approval a proposed *model standing offer* to provide *basic connection services* (Clause 5A.B.2(a)) does not arise until the QLD distributor is obliged to submit a *regulatory proposal* for the *regulatory control period* first commencing after the transition date.

### **Model standing offer (standard connection services)**

- (d) A document, prepared by a QLD distributor and *published* on the QLD distributor's website, will (although not approved by the AER) be regarded as a *model standing offer* to provide *standard connection services* during the transition period if it complies with the requirements of clause 5A.B.4(c) as to its terms and conditions.
- (e) If, during the transition period, the AER approves a *model standing offer* for the same *standard connection services*, the approved *model standing offer* supersedes the former *model standing offer*.
- (f) A QLD distributor may submit for the AER's approval a *model standing offer* to provide *standard connection services* (clause 5A.B.4) during the transition period but the AER's approval of the *standing offer* is not required until the transition date.

### **Amendment of standing offers**

- (g) During the transition period, a QLD distributor may amend a standing offer to provide *basic connection services* or *standard connection services* by *publishing* the amendments and the amended text on its website. (This paragraph applies during the transition period to the exclusion of clause 5A.B.6.)

## **11.46.7 Exclusions, qualifications and modifications for SA**

During the transition period, the relevant provisions apply to, and in relation to, the SA distributor subject to the following exclusions, qualifications and modifications:

### **Connection Policy**

- (a) A document, prepared by the SA distributor and *published* on the SA distributor's website, will (although not approved by the *AER*) be taken to be the SA distributor's *connection policy* for the purposes of the relevant provisions if:
  - (1) it sets out the circumstances in which *connection charges* are payable, the basis for determining the amount of those charges, the *time* at which those charges may be required by the SA distributor and any rebate from the SA distributor to the *customer*; and
  - (2) it applies and is consistent with the distribution determination 2010-11 to 2014-15, made for the SA distributor by the *AER*.

### **Model standing offers (basic connection services)**

- (b) The SA distributor's obligation to have a *model standing offer* to provide *basic connection services* (clause 5A.B.1) operates from the commencement of the transition period.
- (c) The SA distributor must therefore comply with its obligation to submit for the *AER*'s approval a proposed *model standing offer* to provide *basic connection services* (Clause 5A.B.2(a)).
- (d) The requirements as to the content of the *model standing offer* (clause 5A.B.2(b)) apply during (as well as after) the transition period.

### **Model standing offers (standard connection services)**

- (e) The relevant provisions regarding *model standing offers* to provide *standard connection services* operate without modification during the transition period.

### **Amendment of standing offers**

- (f) During the transition period, clause 5A.B.6 applies to the amendment of a standing offer to provide *basic connection services* or *standard connection services*.

## **11.46.8 Exclusions, qualifications and modifications for Tasmania**

During the transition period, the relevant provisions apply to, and in relation to, the Tasmanian distributor subject to the following exclusions, qualifications and modifications:

### **Connection Policy**

- (a) The document "Policy: *Customer Capital Contributions*" submitted by the Tasmanian distributor as part of its *regulatory proposal* for the *regulatory years* 1 July 2012 to 30 June 2017 is taken, during the transition period to be a *connection policy* approved by the *AER*.



**Model standing offers (basic connection services)**

- (b) A document, prepared by the Tasmanian distributor and *published* on the Tasmanian distributor's website, will (although not approved by the *AER*) be regarded as a *model standing offer* to provide *basic connection services* during the transition period if it complies with the requirements of clause 5A.B.2(b) as to its terms and conditions.
- (c) If, during the transition period, the *AER* approves a *model standing offer* for the same *basic connection services*, the approved *model standing offer* supersedes the former *model standing offer*.
- (d) The Tasmanian distributor's obligation to have a *model standing offer* to provide *basic connection services* (clause 5A.B.1) operates during the transition period but the *AER*'s approval of the *standing offer* is not required until the transition date.
- (e) The Tasmanian distributor's obligation to submit for the *AER*'s approval a proposed *model standing offer* to provide *basic connection services* (Clause 5A.B.2(a)) does not arise until the Tasmanian distributor is obliged to submit a *regulatory proposal* for the *regulatory control period* first commencing after the transition date.

**Model standing offer (standard connection services)**

- (f) A document, prepared by the Tasmanian distributor and *published* on the Tasmanian distributor's website, will (although not approved by the *AER*) be regarded as a *model standing offer* to provide *standard connection services* during the transition period if it complies with the requirements of clause 5A.B.4(c) as to its terms and conditions.
- (g) If, during the transition period, the *AER* approves a *model standing offer* for the same *standard connection services*, the approved *model standing offer* supersedes the former *model standing offer*.
- (h) The Tasmanian distributor may submit for the *AER*'s approval a proposed *model standing offer* to provide *standard connection services* (clause 5A.B.4) during the transition period but the *AER*'s approval of the *model standing offer* is not required until the transition date.

**Amendment of standing offers**

- (i) During the transition period, the Tasmanian distributor may amend a standing offer to provide *basic connection services* or *standard connection services* by *publishing* the amendments and the amended text on its website. (This paragraph applies during the transition period to the exclusion of clause 5A.B.6.)

### 11.46.9 Exclusions, qualifications and modifications for Victoria

During the transition period, the relevant provisions apply to, and in relation to, Victorian distributors subject to the following exclusions, qualifications and modifications:

#### Connection Policy

- (a) A document, prepared by a Victorian distributor and *published* on the Victorian distributor's website, will (although not approved by the AER) be taken to be the Victorian distributor's *connection policy* if:
  - (1) it sets out the circumstances in which *connection charges* are payable and the basis for determining the amount of such charges; and
  - (2) it is consistent with:
    - (i) *connection policies* prepared and *published* by Victorian distributors in accordance with the relevant industry guideline (if applicable); and
    - (ii) the Electricity Determination (if applicable).
- (b) In this clause:

**Electricity determination** means the 2011-2015 *distribution* pricing determination (as amended or substituted from *time to time*).

**relevant industry guideline** means the Electricity Industry Guideline No. 14 (Provision of Services by Electricity Distributors):

- (a) as in force immediately before the start date; and
- (b) *published* by the Victorian Essential Services Commission and dated April 2004.

#### Model standing offer (basic connection services)

- (c) A document, prepared by a Victorian distributor and *published* on the Victorian distributor's website, will (although not approved by the AER) be regarded as a *model standing offer* to provide *basic connection services* until 1 July 2013 if it complies with the requirements of clause 5A.B.2(b) as to its terms and conditions.
- (d) If, before 1 July 2013, the AER approves a *model standing offer* for the same *basic connection services*, the approved *model standing offer* supersedes the former *model standing offer*.
- (e) A Victorian distributor's obligation to have a *model standing offer* to provide *basic connection services* (clause 5A.B.1) operates during the transition period but the AER's approval of the *standing offer* is not required until 1 July 2013.

**Model standing offer (standard connection services)**

- (f) A document, prepared by a Victorian distributor and *published* on the Victorian distributor's website, will (although not approved by the *AER*) be regarded as a *model standing offer* to provide *standard connection services* until 1 July 2013 if it complies with the requirements of clause 5A.B.4(c) as to its terms and conditions.
- (g) If, before 1 July 2013, the *AER* approves a *model standing offer* for the same *standard connection services*, the approved *model standing offer* supersedes the former *model standing offer*.
- (h) A Victorian distributor may submit for the *AER*'s approval a proposed *model standing offer* to provide *standard connection services* (clause 5A.B.4) before 1 July 2013 but the *AER*'s approval of the *model standing offer* is not required until 1 July 2013.

**Amendment of standing offers**

- (i) Until 1 July 2013, a Victorian distributor may amend a *standing offer* to provide *basic connection services* or *standard connection services* by *publishing* the amendments and the amended text on its website. (This paragraph applies until 1 July 2013 to the exclusion of clause 5A.B.6.)

**Division 3                      General provisions**

**11.46.10 Connection charges**

- (a) A *Distribution Network Service* Provider must comply with its *connection policy* and any other *applicable regulatory* obligation or requirement when calculating or imposing a *connection charge* for the transition period.
- (b) This clause operates to the exclusion of clauses 5A.E.1 and 5A.E.2 until the transition date.

**11.46.11 References**

A reference to any of the relevant provisions in a legislative or other instrument will be construed, during the transition period, as a reference to the provision as modified by this Part.

## Part ZQ NSW transitional retail support and credit support rules

### 11.47 Rules consequential on the insertion of Chapter 6B by the National Electricity (National Energy Retail Law) Amendment Rule 2012

#### Division 1 Preliminary

##### 11.47.1 Definitions

In this Part:

**applicable dispute resolution procedures** means the dispute resolution regime contained in rule 8.2 unless the NSW DNSP and NSW Retailer have agreed under clause 11.47.2 that alternative dispute resolution procedures are to apply.

**Bank bill rate** in respect of any *day* means:

- (a) the Bank Bill Swap Reference Rate for 30 *days* on that *day* (or if not a *business day*, on the previous *business day*) published in the Australian Financial Review; or
- (b) if the rate in paragraph (a) is not available, the rate percent per annum agreed by the parties in good faith to be the appropriate rate having regard to comparable indices then available in the then current bill market.

**bill receipt date** means the date on which the bill is given (or taken to be given) to a NSW Retailer by a NSW DNSP in the same manner as the notices under rule 1.8 of these *Rules*.

**default rate** means the *Bank bill rate* plus 2% per annum.

**disputed amount** means an amount that satisfies all of the following:

- (a) the amount is specified in a bill issued by a NSW DNSP to a NSW Retailer in respect of network charges payable by the NSW Retailer; and
- (b) the NSW Retailer has provided a Notice of disputed amount in respect of that amount.

**due date for payment** means:

- (a) in the case of an amount specified in a bill in respect of network charges:
  - (i) where a bill is given before 1 July 2002, the date specified in the bill (being a date not less than 20 *business days* from the giving of the bill to the NSW Retailer); or
  - (ii) where a bill is given on or after 1 July 2002, the date specified in the bill (being a date not less than 16 *business days* from the giving of the bill to the NSW Retailer),

or

- (b) in the case of a disputed amount that is determined to be payable by a NSW Retailer in accordance with applicable dispute resolution procedures, 5 *business days* after the determination.

**Notice of disputed amount** means a notice given by a NSW Retailer to a NSW DNSP stating that:

- (a) that the NSW Retailer disputes payment of an amount specified in the bill; and
- (b) the grounds for dispute in respect of the amount disputed; and
- (c) that the NSW Retailer undertakes to the NSW DNSP that the dispute in respect of the particular disputed amount is a bona fide dispute.

**Notice of intention to draw on credit support** means a notice given to a NSW Retailer by a NSW DNSP stating:

- (a) the date of the notice;
- (b) that the NSW DNSP intends to draw on the credit support;
- (c) the date (not less than 5 *business days* from the date of the notice) on which the NSW DNSP will draw on the credit support.

**Notice of request for credit support** means a notice requesting credit support stating:

- (a) the required credit support amount;
- (b) the basis for calculation of the required credit support amount, and includes a notice where a required credit support is reviewed.

**network charges** has the same meaning as in the *NERL*.

**NSW DNSP** means any of the following:

- (a) Essential Energy (established under the *Energy Services Corporation Act 1995* (NSW));
- (b) Endeavour Energy (established under the *Energy Services Corporation Act 1995* (NSW); and
- (c) Ausgrid (established under the *Energy Services Corporation Act 1995* (NSW);

**NSW Retailer** means the *financially responsible Market Participant* for a *market connection point* located in NSW and for any *market connection point* on Essential Energy's *distribution network*.

**outstanding amount** means any amount specified in a bill for network charges (excluding any disputed amount) that is unpaid by the due date for payment

**required credit support amount** means an amount of credit support equal to 90 *days* of network charges reasonably estimated by the NSW DNSP to be incurred by the NSW Retailer during the period of 90 *days* following the request by the NSW DNSP for credit support.

**shared customer** has the same meaning as in the *NERL*.

**small customer** has the same meaning as in the *NERL*.

**start date** means the date when this rule 11.47 comes into operation.

**transition period** means the period from the start date to the actual commencement date of the *regulatory control period* due to commence on 1 July 2014.

### 11.47.2 Application

- (a) During the transition period, Chapter 6B of the *Rules* does not apply to a NSW DNSP and NSW Retailer in relation to *market connection points* located in NSW and any *market connection point* on Essential Energy's *distribution network*.
- (b) Nothing in this rule 11.47 prevents a NSW DNSP and a NSW Retailer from reaching agreement on any matters under this rule 11.47 or the *Rules*, provided that any such agreement:
  - (i) is expressed to incorporate the rights and obligations of the respective parties set out in clause 11.47.4, and to be subject to clause 11.47.4; and
  - (ii) is consistent with the rights and obligations of the parties as *Registered participants*.

### 11.47.3 Obligation to pay

- (a) A NSW retailer must pay to a NSW DNSP the network charges payable in respect of each *shared customer* in accordance with this rule 11.47 by the due date for payment.
- (b) A NSW DNSP must not specify a due date for payment which is less than 16 *business days* from the date on which the bill is given to the NSW Retailer.
- (c) Where a NSW Retailer disputes payment of all or any part of the bill, the NSW Retailer must give a Notice of disputed amount not less than 3 *business days* before the due date for payment.
- (d) A Notice of disputed amount given in accordance with paragraph (c) entitles the NSW Retailer to withhold payment on the due date for payment of the

disputed amount but does not entitle non-payment of any other amounts contained in the bill.

- (e) A dispute between a NSW Retailer and a NSW DNSP in relation to this rule 11.47 must be resolved in accordance with the applicable dispute resolution procedures.

#### **11.47.4 Charging and billing**

- (a) For small *customers*, a NSW DNSP may only require payment of, and issue bills for, network charges from the small *customer's retailer*.
- (b) Where a *customer* (who is not a small *customer* or Registered *Customer*) and a NSW Retailer agree, the NSW DNSP may require payment of, and issue bills for, network charges in respect of that *customer's connection* point.

#### **11.47.5 Interest on unpaid amounts**

- (a) Where a NSW Retailer does not pay a NSW DNSP all network charges specified in the bill by the due date for payment, the NSW Retailer is liable to pay interest on any *outstanding* amount.
- (b) If a part of a disputed amount is determined to be payable by a NSW Retailer in accordance with the applicable dispute resolution procedures, the NSW Retailer is liable to pay interest on any unpaid amount from the due date for payment until the amount is paid.
- (c) Interest is to be calculated:
  - (i) at the *default rate* applicable on the first *business day* of the *month*;
  - (ii) on actual *days* elapsed;
  - (iii) on a 365 *day* year,and is to be capitalised on the first *business day* of each *month*.
- (d) Any interest accrued is to be included in the next bill issued by the NSW DNSP as a proper charge payable by the NSW Retailer.

#### **11.47.6 Circumstances where NSW DNSP may request credit support**

- (a) A NSW DNSP may require a NSW Retailer to provide credit support for payment of network charges in favour of the NSW DNSP, but only in accordance with this rule 11.47.
- (b) Credit support for payment of network charges may only be required if, at any *time*, a NSW Retailer does not have an unqualified credit rating of at least:
  - (i) BBB from Standard and Poor's (Australia) Pty Ltd;

- (ii) Baa from Moody's Investor Service Pty Ltd; or
- (iii) an equivalent credit rating as determined by the NSW DNSP.

#### **11.47.7 Credit support**

Credit support is an undertaking in writing from a person (the *Credit Support Provider*) which:

- (a) is a guarantee or bank letter of credit in a form acceptable to the NSW DNSP;
- (b) is duly executed by the *Credit Support Provider* and delivered unconditionally to the NSW DNSP;
- (c) constitutes valid and binding unsubordinated obligations of the *Credit Support Provider* to pay the DNSP amounts in accordance with the terms of the undertaking that relate to obligations of the NSW Retailer under this rule 11.47; and
- (d) permits drawings or claims by the NSW DNSP to the required credit support amount under this rule 11.47.

#### **11.47.8 Credit support providers**

- (a) The *Credit Support Provider* must meet the requirements set out in clause 3.3.3 of the *Rules*.
- (b) For the purposes of this rule 11.47, an *acceptable credit rating* for a *Credit Support Provider* is:
  - (i) AA from Standard and Poor's (Australia) Pty Ltd;
  - (ii) Aa from Moody's Investor Service Pty Ltd; or
  - (iii) an equivalent credit rating as determined by the NSW DNSP.

#### **11.47.9 NSW DNSP to determine required credit support amount**

- (a) In determining the required credit support amount in respect of a NSW Retailer, the NSW DNSP must consider the basis for calculation of network charges for the *market connection points* for which the NSW Retailer is the *financially responsible market participant* in the *distribution network* of the NSW DNSP.
- (b) The NSW DNSP must inform the NSW Retailer of the basis for calculation of the required credit support amount when giving a Notice of request for credit support.
- (c) A NSW DNSP may review a required credit support amount not less than 10 *business days* after the date of any previous Notice of request for credit support.



- (d) A NSW Retailer may request a NSW DNSP to review a required credit support amount not less than 10 *business days* after the date of any previous Notice of request for credit support.

#### **11.47.10 NSW Retailer to ensure credit support available**

- (a) A NSW Retailer must provide credit support in accordance with a Notice of request for credit support within 5 *business days* of the giving of the notice.
- (b) Without limiting paragraphs (c) and (d), the NSW Retailer must ensure that at all *times* the aggregate and undrawn amounts of the then current and valid credit support held by the NSW DNSP in respect of the NSW Retailer for network charges are not less than the current required credit support amount for that NSW Retailer.
- (c) A NSW Retailer must ensure in the case where any current credit support is due to expire or terminate that:
  - (i) the NSW DNSP is notified at least 10 *business days* prior to such expiry or termination; and
  - (ii) replacement credit support that complies with this rule 11.47 is in place and effective from the date of expiry or termination.
- (d) Where as a result of the NSW DNSP exercising its rights under a *credit support provided* by the NSW Retailer, the total remaining credit support is less than the required credit support amount, the NSW Retailer must, within 24 hours of receiving a request for replacement credit support from the NSW DNSP, procure the replacement amount to restore the required credit support amount.

#### **11.47.11 Drawing on credit support**

- (a) A NSW DNSP may only draw on credit support in respect of an *outstanding* amount where all of the following circumstances apply:
  - (i) the NSW DNSP is entitled to require credit support and has given Notice of request for credit support in accordance with this rule 11.47;
  - (ii) 5 *business days* have elapsed since the NSW DNSP gave Notice of intention to draw on credit support; and
  - (iii) the *outstanding* amount remains unpaid on the date on which the NSW DNSP draws on the credit support
- (b) Where a disputed amount is determined to be payable by a NSW Retailer in accordance with applicable dispute resolution procedures, a DNSP may draw on credit support in respect of amounts payable in accordance with this clause.

### 11.47.12 Specific transitional arrangements

Any action taken under *Market Operation Rule (Network Use of System Agreements) No. 2 of 2001* (made under section 63C of the *Electricity Supply Act 1995* (NSW)) as in force immediately before the start date is taken to be the equivalent action under this rule 11.47.

## Part ZR Miscellaneous transitional rules—NERL

### 11.48 Rules consequential on the making of the National Electricity (National Energy Retail Law) Amendment Rule 2012

#### 11.48.1 Extension of time period for AER to consider certain pass through applications

- (a) This clause applies to an application from a *Distribution Network Service Provider* for pass through of costs under clause 6.6.1 or clause 6.6.1 of Appendix 1, arising from the commencement of the *National Energy Retail Law*, the *National Energy Retail Rules*, the *National Energy Retail Regulations* and associated amendments to the *energy laws* as they apply in the State or Territory in which that *Distribution Network Service Provider* operates.
- (b) The *time* limit for the making of a determination by the *AER* in subclause 6.6.1(e) and subclause 6.6.1(e) of Appendix 1, is 100 *business days*.

## Part ZS Cost pass through arrangements for Network Service Providers

### 11.49 Rules consequential on the making of National Electricity Amendment (Cost pass through arrangements for Network Service Providers) Rule 2012

#### 11.49.1 Definitions

In this rule 11.49:

**Amending Rule** means the National Electricity Amendment (Cost pass through arrangements for Network Service Providers) Rule 2012.

**commencement date** means the date the Amending Rule commences operation.

**current regulatory control period** for a *Network Service Provider* means the *regulatory control period* that commenced before the commencement date and, as at the commencement date, has not ended.

**next regulatory control period** for a *Network Service Provider* means the *regulatory control period* that commences after the end of the current regulatory control period.

**Powerlink** means Queensland Electricity Transmission Corporation Ltd (ACN 078 849 233).

**ElectraNet** means ElectraNet Pty Ltd (ACN 094 482 416).

**Murraylink** means Murraylink Transmission Company Pty Ltd (ACN 089 875 605).

**terrorism event** means *terrorism event* as defined in Chapter 10 of the *Rules* as in force immediately before the commencement date.

#### **11.49.2 Terrorism event is a cost pass through event in the current regulatory control period**

Despite the Amending Rule, a terrorism event is a *pass through event* for a *Network Service Provider* during its current regulatory control period.

#### **11.49.3 Transitional arrangement for Powerlink**

- (a) Powerlink may, by written notice to the *AER* not later than 90 days after the commencement date, apply to amend its *transmission determination* for the current regulatory control period to include one or more nominated *pass through events*.
- (b) Within 90 business days of receiving a notice under paragraph(a), the *AER* must determine the additional *pass through events* that are to apply to Powerlink for the current regulatory control period.
- (c) In making a determination under paragraph (b), the *AER* must take into account the *nominated pass through event considerations*.
- (d) If the *AER* determines under paragraph(b) that additional *pass through events* should apply to Powerlink for the current regulatory control period, the *AER* must as soon as practicable:
  - (1) notify Powerlink of that determination in writing; and
  - (2) amend Powerlink's *transmission determination* in accordance with paragraph(e).
- (e) Amendments to a *transmission determination* referred to in paragraph (d)(2) must only vary the determination to the extent necessary to include the additional *pass through events* that the *AER* has determined will apply to Powerlink in the *transmission determination*.
- (f) If the *AER* determines under paragraph (b) that Powerlink's *transmission determination* should not include a *pass through event* nominated by Powerlink under paragraph (a), it must notify Powerlink as soon as practicable.

#### 11.49.4 Transitional arrangements for ElectraNet and Murraylink

- (a) Each of ElectraNet and Murraylink may, not later than 30 days after the commencement date, submit to the *AER* a proposal as to the events that should be defined as *pass through events* under clause 6A.7.3(a1)(5) for the purposes of its *Revenue Proposal* for the next *regulatory control period*, having regard to the *nominated pass through event considerations*.
- (b) If within 30 days after the commencement date the *AER* receives a proposal under paragraph (a) from ElectraNet or MurrayLink, then the *AER* must treat the proposal as if it had been included in the relevant *Transmission Network Service Provider's Revenue Proposal* for the next *regulatory control period* and make a decision under clause 6A.14.1(9) in respect of that proposal.

### Part ZT Distribution Network Planning and Expansion

#### 11.50 Rules consequential on the making of the National Electricity Amendment (Distribution Network Planning and Expansion) Rule 2012

##### 11.50.1 Interpretation

Unless otherwise specified, terms defined in clause 5.10.2 have the same meaning when used in this rule 11.50.

##### 11.50.2 Definitions

For the purposes of this rule 11.50:

**Amending Rule** means the National Electricity Amendment (Distribution Network Planning and Expansion) Rule 2012.

**commencement date** means the date of commencement of Schedules 1 to 4 and Schedule 6 of the Amending Rule.

**DAPR date** has the meaning given to it in clause 5.13.2(a).

**new rules 5.15 and 5.17** means rules 5.15 and 5.17 of the *Rules* as in force immediately after the commencement date.

**new network investment** means has the meaning given to it in the *Rules* as in force immediately before the commencement date.

**old clause 5.6.2(e1) to (k)** means clauses 5.6.2(e1) to (k) of the *Rules* as in force immediately before the commencement date.

**old clause 5.6.5A** means clause 5.6.5A of the *Rules* (including the regulatory test and the regulatory test application guidelines made under by the *AER* under that clause and all definitions used in that clause) as in force immediately before the commencement date.

**regulatory test** has the meaning given to it in the *Rules* as in force immediately before the commencement date.

**regulatory test project** for a *Distribution Network Service Provider* means each project specified in the list provided by the *Distribution Network Service Provider* to the *AER* under clause 11.50.5(c), except any project the subject of a determination under clause 11.50.5(e).

**RIT-D commencement date** means the date that is one year from the commencement date.

### 11.50.3 Timing for first Distribution Annual Planning Report

If the first DAPR date for a *Distribution Network Service Provider* is less than 6 months after the commencement date then, despite clause 5.13.2(b), the *Distribution Network Service Provider* is not required to *publish* its first *Distribution Annual Planning Report* under clause 5.13.2 until the second DAPR date for that *Distribution Network Service Provider* after the commencement date.

### 11.50.4 Contents of Distribution Annual Planning Report

- (a) A *Distribution Network Service Provider* is not required to include in its first *Distribution Annual Planning Report published* under clause 5.13.2 the information specified in clause S5.8(a)(5) if information on energy and demand forecasts was not required to be reported by the *Distribution Network Service Provider* under *jurisdictional electricity legislation* applicable at the time the previous report was prepared.
- (b) Notwithstanding clause S5.8(e), if a *Distribution Annual Planning Report* is *published*:
  - (1) in the period from the commencement date to the RIT-D commencement date, then the *Distribution Network Service Provider*:
    - (i) is not required to include the information specified in clauses S5.8(e) and (f) in its *Distribution Annual Planning Report*; and
    - (ii) must include in its *Distribution Annual Planning Report* the information specified in paragraph (c); and
  - (2) in the period from the RIT-D commencement date until the DAPR date after the completion of its last assessment of a project under the *regulatory test*, then the *Distribution Network Service Provider*:
    - (i) is not required to include the information specified in clauses S5.8(e) and (f) in its *Distribution Annual Planning Report*; and
    - (ii) must include in its *Distribution Annual Planning Report* the information specified in paragraph (d).
- (c) For the purposes of paragraph (b)(1)(ii), the *Distribution Network Service Provider* must include in its *Distribution Annual Planning Report* the

information specified in clauses S5.8(e) and (f) as if those clauses were modified as follows:

- (1) by omitting "RIT-D project" and substituting "*new network investment*";
  - (2) by omitting "regulatory investment test for distribution" and substituting "regulatory test";
  - (3) by omitting "credible option" and substituting "investment option"; and
  - (4) by omitted "preferred option" and substituting "preferred proposal".
- (d) For the purposes of paragraph (b)(2)(ii), the *Distribution Network Service Provider* must include in its *Distribution Annual Planning Report* the information specified in clauses S5.8(e) and (f) as if those clauses were modified as follows:
- (1) by omitting "RIT-D projects" and substituting "*new network investment* or RIT-D projects (as the case may be)";
  - (2) by omitting "regulatory investment test for distribution" and substituting "regulatory test or the regulatory investment test for distribution (as the case may be)";
  - (3) by omitting "credible option" and substituting "investment option or credible option (as the case may be)"; and
  - (4) by omitted "preferred option" and substituting "preferred proposal or preferred option (as the case may be)".

#### **11.50.5 Transition from the regulatory test to the regulatory investment test for distribution**

- (a) From the commencement date until the RIT-D commencement date:
- (1) new rules 5.15 and 5.17 have no effect in relation to RIT-D projects or joint planning projects;
  - (2) old clause 5.6.5A continues to apply to new network investment; and
  - (3) *Registered Participants* must comply with old clauses 5.6.2(e1) to (k) to the extent those provisions are relevant to the application of the regulatory test.
- (b) After the RIT-D commencement date:
- (1) new rules 5.15 and 5.17 have no effect in relation to RIT-D projects that are regulatory test projects;
  - (2) old clause 5.6.5A continues to apply to regulatory test projects; and

- (3) *Registered Participants* must comply with old clauses 5.6.2(e1) to (k) to the extent those provisions are relevant to the application of the regulatory test.
- (c) By 31 December 2013, each *Network Service Provider* that has commenced assessing a project under the regulatory test must submit to the *AER* a list of those projects.
- (d) In the first regulatory investment test for distribution application guidelines it *publishes* under clause 5.17.2(d), the *AER* must, in addition to meeting the requirements of clause 5.17.2, provide guidance as to when a regulatory test assessment will be considered to have commenced for the purposes of paragraph (c).
- (e) The *AER* may, having regard to any guidelines made under clause 5.17.2(d), determine that a project or projects in the list submitted by a *Network Service Provider* under paragraph (c) have not commenced assessment under the *regulatory test*.

## Part ZU New Prudential Standard and Framework in the NEM

### 11.51 Rules consequential on the making of the National Electricity Amendment (New Prudential Standard and Framework in the NEM) Rule 2012

#### 11.51.1 Definitions

For the purposes of this rule 11.51:

**Amending Rule** means the National Electricity Amendment (New Prudential Standard and Framework in the NEM) Rule 2012.

**commencement date** means the date the Amending Rule commences operation.

**credit limit procedures** has the meaning given to it in clause 3.1.1A of the *Rules* after the commencement date.

**maximum credit limit** has the meaning given to it in Chapter 10 of the *Rules* immediately prior to the commencement date.

**new clause 3.3.8** means clause 3.3.8 of the *Rules* after the commencement date.

**old clause 3.3.8** means clause 3.3.8 of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the Amending Rule) as in force immediately prior to the commencement date.

**prudential margin** has the meaning given to it in Chapter 10 of the *Rules* immediately prior to the commencement date.

**prudential settings** has the meaning given to it in clause 3.1.1A of the *Rules* after the commencement date.

#### **11.51.2 AEMO's responsibility to develop and publish the credit limit procedures**

As soon as it is practicable after the commencement date, and in accordance with the *Rules consultation procedures*, AEMO must develop and *publish* the credit limit procedures in accordance with the Amending Rule.

#### **11.51.3 Transition to the framework for determining prudential settings**

- (a) AEMO must continue to calculate the maximum credit limit and the prudential margin to apply to *Market Participants* under old clause 3.3.8 until it determines the prudential settings to apply to *Market Participants* under new clause 3.3.8.
- (b) By 1 December 2013:
  - (1) AEMO must determine the prudential settings to apply to each *Market Participant* under new clause 3.3.8; and
  - (2) AEMO must notify each *Market Participant*, in writing, of the prudential settings that apply to it under new clause 3.3.8.

#### **11.51.4 Prior consultation, step, decision or action taken by AEMO**

- (a) If, prior to the commencement date and for the purposes of developing the credit limit procedures in anticipation of the Amending Rule, AEMO undertook a consultation or step equivalent to that as required in the *Rules consultation procedures*, then that consultation or step is taken to satisfy the equivalent consultation or step under the *Rules consultation procedures*.
- (b) If, prior to the commencement date and in anticipation of the Amending Rule, AEMO made a decision or took an action, that decision or action is taken to satisfy the equivalent decision or action under the *Rules*.

### **Part ZV Small Generation Aggregator Framework**

#### **11.52 Rules consequential on the making of the National Electricity Amendment (Small Generation Aggregator Framework) Rule 2012**

##### **11.52.1 Definitions**

In this rule 11.52:

**Amending Rule** means the National Electricity Amendment (Small Generation Aggregator Framework) Rule 2012.

**Amending Rule commencement date** means the date of commencement of the Amending Rule.



**customer energy** has the same meaning in clause 3.15.6A(o)(3) of new clause 3.15.6A.

**small generator energy** has the same meaning in clause 3.15.6A(o)(5) of new clause 3.15.6A.

**MSGA participant fees and Chapter 3 commencement date** has the meaning given to it in clause 11.52.2.

**new clause 3.15.6A** means clause 3.15.6A of the *Rules* after the Amending Rule commencement date.

**new clause 3.15.8** means clause 3.15.8 of the *Rules* after the Amending Rule commencement date.

**new clause 3.15.10C** means clause 3.15.10C of the *Rules* after the Amending Rule commencement date.

**old clause 3.15.6A** means clause 3.15.6A of the *Rules* (and all definitions in, and relevant provisions of, the *Rules*) in force immediately prior to the Amending Rule commencement date.

**old clause 3.15.8** means clause 3.15.8 of the *Rules* (and all definitions in, and relevant provisions of, the *Rules*) in force immediately prior to the Amending Rule commencement date.

**old clause 3.15.10C** means clause 3.15.10C of the *Rules* (and all definitions in, and relevant provisions of, the *Rules*) in force immediately prior to the Amending Rule commencement date.

#### **11.52.2 Commencement of participant fees as well as transactions, funding and settlements under Chapter 3 for Market Small Generation Aggregators**

- (a) Subject to paragraph (b), the MSGA participant fees and Chapter 3 commencement date is 31 December 2013.
- (b) *AEMO* may determine a MSGA participant fees and Chapter 3 commencement date that is earlier than 31 December 2013 provided that:
  - (1) *AEMO* is able to do all of the following:
    - (i) charge *Participant fees* under this Part; and
    - (ii) determine ancillary services transactions under new clause 3.15.6A; and
    - (iii) include (if required) in a relevant *final statement* amounts calculated under new clause 3.15.10C; and

- (2) *AEMO publishes* a notice that specifies the earlier MSGA participant fees and Chapter 3 commencement date, which must not be less than 10 *business days* before the specified date.

### **11.52.3 Participant fees for Market Small Generation Aggregators**

- (a) For the period from the MSGA participant fees and Chapter 3 commencement date until the date that *AEMO publishes* a revised structure of *Participant fees* under rule 2.11, for the purposes of charging a *Market Small Generator Aggregator* a *Participant fee*, in the document titled "Structure of Participant Fees under rule 2.11 of the National Electricity Rules" dated 21 March 2011, references to *Market Customer* will be taken to include *Market Small Generator Aggregator*.
- (b) In *publishing* a revised structure of *Participant fees* under rule 2.11, *AEMO* must take into account the Amending Rule.

### **11.52.4 Ancillary service transactions, funding of compensation for directions and intervention settlements for directions for Market Small Generation Aggregators**

- (a) As soon as practicable after the Amending Rule commencement date:
  - (1) *AEMO* must implement a plan to update its process, software or algorithm in regards to the determination by *AEMO* of ancillary service transactions referred to in clause 3.15.6A to take into account the Amending Rule; and
  - (2) *AEMO* must amend the procedure for determining contribution factors as referred to in clause 3.15.6A(j) to take into account the Amending Rule.
- (b) From the Amending Rule commencement date to the MSGA participant fees and Chapter 3 commencement date:
  - (1) *AEMO* must determine ancillary service transactions under old clause 3.15.6A, where:
    - (i) *Market Customer* will be taken to include *Market Small Generation Aggregator*; and
    - (ii) customer energy will be taken to include small generator energy;
  - (2) *AEMO* must calculate funding of compensation for *directions* under old clause 3.15.8; and
  - (3) *AEMO* must include in a relevant *final statement* amounts calculated under old clause 3.15.10C.
- (c) *AEMO* may amend the procedure for determining contribution factors as referred to in clause 3.15.6A(j) to take into account the Amending Rule without complying with the *Rules consultation procedures* provided that it:

- (1) *publishes* a notice that the procedure for determining contribution factors as referred to in clause 3.15.6A(j) has been amended to take into account the Amending Rule; and
- (2) makes available on its website the amended procedure for determining contribution factors as referred to in clause 3.15.6A(j).

#### **11.52.5 Amendments to the carbon dioxide equivalent intensity index procedures**

- (a) As soon as practicable after the Amending Rule commencement date, AEMO must amend and publish the *carbon dioxide equivalent intensity index procedures* so that a reference to a *market generating unit* is not taken to include a *small generating unit*.
- (b) AEMO may amend the *carbon dioxide equivalent intensity index procedures* so that a reference to a *market generating unit* is not taken to include a *small generating unit*, without complying with the *Rules consultation procedures* provided that it:
  - (1) *publishes* a notice that a reference to a *market generating unit* in the *carbon dioxide equivalent intensity index procedures* is not taken to include a *small generating unit*; and
  - (2) makes available on its website the amended *carbon dioxide equivalent intensity index procedures*.

#### **11.52.6 Amendments of the metrology procedures**

- (a) As soon as practicable after the Amending Rule commencement date, AEMO must amend the *metrology procedures* to take into account the Amending Rule.
- (b) Only to the extent of amending the *metrology procedures* to take into account the Amending Rule, AEMO:
  - (1) is not subject to, or required to comply with, clause 7.1.4(a) and (b);
  - (2) is not required to comply with the *Rules consultation procedures*;
  - (3) must *publish* a notice that the *metrology procedures* has been amended to take into account the Amending Rule; and
  - (4) must make available on its website the amended *metrology procedures*.

#### **11.52.7 Amendments to the Market Settlement and Transfer Solution Procedures**

- (a) As soon as practicable after the Amending Rule commencement date, AEMO must amend and *publish* the *Market Settlement and Transfer Solution Procedures* to take into account the Amending Rule.

- (b) If, prior to the Amending Rule commencement date, and for the purposes of developing the *Market Settlement and Transfer Solution Procedures* in anticipation of the Amending Rule, AEMO undertook a consultation, step, decision or action equivalent to that as required in the *Rules consultation procedures*, then that consultation, step, decision or action is taken to satisfy the equivalent consultation, step, decision or action under the *Rules consultation procedures*.

## **Part ZW Economic Regulation of Network Service Providers (2012 amendments)**

### **Division 1                      Miscellaneous transitional provisions**

#### **11.53              Publication of Chapter 6 Guidelines**

##### **11.53.1           Shared Asset Guidelines**

- (a) The AER must *publish* the first *Shared Asset Guidelines* under clause 6.4.4 by 29 November 2013.
- (b) By no later than 21 December 2012, the AER must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Shared Asset Guidelines* by the date specified in paragraph (a); and
  - (2) the specific consultation procedure that the AER will follow in making the first *Shared Asset Guidelines*, which must be consistent with the *distribution consultation procedures*.

##### **11.53.2           Capital Expenditure Incentive Guidelines**

- (a) The AER must *publish* the first *Capital Expenditure Incentive Guidelines* under rule 6.4A by 29 November 2013
- (b) By no later than 21 December 2012, the AER must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Capital Expenditure Incentive Guidelines* by the date specified in paragraph (a); and
  - (2) the specific consultation procedure that the AER will follow in making the first *Capital Expenditure Incentive Guidelines*, which must be consistent with the *distribution consultation procedures*.

### **11.53.3 Rate of Return Guidelines**

- (a) The *AER* must *publish* the first *Rate of Return Guidelines* under clause 6.5.2 by 29 November 2013.
- (b) By no later than 21 December 2012, the *AER* must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Rate of Return Guidelines* by the date specified in paragraph (a); and
  - (2) the specific consultation procedure that the *AER* will follow in making the first *Rate of Return Guidelines*, which must be consistent with the *distribution consultation procedures*.

### **11.53.4 Expenditure Forecast Assessment Guidelines**

- (a) The *AER* must *publish* the first *Expenditure Forecast Assessment Guidelines* under clause 6.4.5 by 29 November 2013.
- (b) By no later than 21 December 2012, the *AER* must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Expenditure Forecast Assessment Guidelines* by the date specified in paragraph (a); and
  - (2) the specific consultation procedure that the *AER* will follow in making the first *Expenditure Forecast Assessment Guidelines*, which must be consistent with the *distribution consultation procedures*.

### **11.53.5 Distribution Confidentiality Guidelines**

- (a) The *AER* must *publish* the first *Distribution Confidentiality Guidelines* under rule 6.14A by 29 November 2013.
- (b) By no later than 21 December 2012, the *AER* must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Distribution Confidentiality Guidelines* by the date specified in paragraph (a); and
  - (2) the specific consultation procedure that the *AER* will follow in making the first *Distribution Confidentiality Guidelines*, which must be consistent with the *distribution consultation procedures*.

### **11.53.6 Consultation procedure paper**

For the avoidance of doubt, nothing prevents the *AER* from publishing one or more of the papers referred to in clauses 11.53.1(b), 11.53.2(b), 11.53.3(b), 11.53.4(b) and 11.53.5(b) or in rule 11.54 in the same document.

## **11.54 Publication of Chapter 6A Guidelines**

### **11.54.1 Shared Asset Guidelines**

- (a) The *AER* must *publish* the first *Shared Asset Guidelines* under clause 6A.5.5 by 29 November 2013.
- (b) By no later than 21 December 2012, the *AER* must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Shared Asset Guidelines* by the date specified in paragraph (a); and
  - (2) the specific consultation procedure that the *AER* will follow in making the first *Shared Asset Guidelines*, which must be consistent with the *transmission consultation procedures*.

### **11.54.2 Capital Expenditure Incentive Guidelines**

- (a) The *AER* must *publish* the first *Capital Expenditure Incentive Guidelines* under rule 6A.5A by 29 November 2013.
- (b) By no later than 21 December 2012, the *AER* must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Capital Expenditure Incentive Guidelines* by the date specified in paragraph (a); and
  - (2) the specific consultation procedure that the *AER* will follow in making the first *Capital Expenditure Incentive Guidelines*, which must be consistent with the *transmission consultation procedures*.

### **11.54.3 Rate of Return Guidelines**

- (a) The *AER* must *publish* the first *Rate of Return Guidelines* under clause 6A.6.2 by 29 November 2013.
- (b) By no later than 21 December 2012, the *AER* must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Rate of Return Guidelines* by the date specified in paragraph (a); and

- (2) the specific consultation procedure that the *AER* will follow in making the first *Rate of Return Guidelines*, which must be consistent with the *transmission consultation procedures*.

#### **11.54.4 Expenditure Forecast Assessment Guidelines**

- (a) The *AER* must *publish* the first *Expenditure Forecast Assessment Guidelines* under clause 6A.5.6 by 29 November 2013.
- (b) By no later than 21 December 2012, the *AER* must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Expenditure Forecast Assessment Guidelines* by the date specified in paragraph (a); and
  - (2) the specific consultation procedure that the *AER* will follow in making the first *Expenditure Forecast Assessment Guidelines*, which must be consistent with the *transmission consultation procedures*.

#### **11.54.5 Transmission Confidentiality Guidelines**

- (a) The *AER* must *publish* the first *Transmission Confidentiality Guidelines* under rule 6A.16A by 29 November 2013.
- (b) By no later than 21 December 2012, the *AER* must *publish* a paper that sets out:
  - (1) a schedule setting out the key dates and milestones for the making of the first *Transmission Confidentiality Guidelines* by the date specified in paragraph (a); and
  - (2) the specific consultation procedure that the *AER* will follow in making the first *Transmission Confidentiality Guidelines*, which must be consistent with the *transmission consultation procedures*.

#### **11.54.6 Consultation paper procedure**

For the avoidance of doubt, nothing prevents the *AER* from publishing one or more of the papers referred to in clauses 11.54.1(b), 11.54.2(b), 11.54.3(b), 11.54.4(b) and 11.54.5(b) or in rule 11.53 in the same document.

## **Division 2 Transitional provisions for NSW/ACT Distribution Network Service Providers**

### **11.55 General provisions**

#### **11.55.1 Definitions**

In this Division 2:

**affected DNSP** means a NSW/ACT DNSP.

**Amending Rules** means Schedules 1 and 3 of the *National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012*.

**current Chapter 6** means Chapter 6 of the *Rules* as in force immediately after the Amending Rules come into force.

**current regulatory control period**, of an affected DNSP, means the *regulatory control period* for the affected DNSP that immediately precedes the transitional regulatory control period.

**former Chapter 6** means Chapter 6 of the *Rules* as in force immediately before the Amending Rules come into force.

**NSW/ACT DNSP** means each of the following *Distribution Network Service Providers*:

- (a) ActewAGL, the joint venture between ACTEW Distribution Limited ACN 073 025 224 and Jemena Networks (ACT) Pty Ltd ACN 008 552 663 providing *distribution services* in the Australian Capital Territory, or any successor to its business;
- (b) Ausgrid, the energy services corporation of that name (formerly known as EnergyAustralia), which is constituted under section 7 of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 2 of Schedule 1 to that Act, or any successor to its business;
- (c) Endeavour Energy, the energy services corporation of that name (formerly known as Integral Energy), which is constituted under section 7 of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 2 of Schedule 1 to that Act, or any successor to its business; and
- (d) Essential Energy, the energy services corporation of that name (formerly known as Country Energy), which is constituted under section 7 of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 2 of Schedule 1 to that Act, or any successor to its business.

**subsequent regulatory control period**, of an affected DNSP, means the *regulatory control period* for the affected DNSP that immediately follows the transitional regulatory control period.

**Note:**

The definition of *regulatory control period* for the purposes of this definition is affected by clause 11.56.4(k).

**transitional Chapter 6** has the meaning given to it in clause 11.55.2.

**transitional regulatory control period** means a period of one year that commences on 1 July 2014 and ends on 30 June 2015.



**transitional regulatory proposal**, for an affected DNSP, means a *regulatory proposal* for *distribution services* provided by means of, or in connection with, a *distribution system* that is owned, controlled or operated by the affected DNSP, being a *regulatory proposal* that is for the transitional regulatory control period.

**Note:**

The definition of *regulatory proposal* for the purposes of this definition is affected by clause 11.55.2(b).

## 11.55.2 Transitional Chapter 6

For the purposes of this Division 2, **transitional Chapter 6** means current Chapter 6 except that:

- (a) the following clauses are omitted: clauses 6.3, 6.4.3, 6.4.4(a), (b), 6.5.2(a)-(l), 6.5.3, 6.5.5, 6.5.6, 6.5.7, 6.5.9, 6.5.10, 6.6.1(j)(7), 6.6.5, 6.6A, 6.8.1, 6.8.1A, 6.9.1, 6.9.2, 6.9.2A, 6.9.3(b), (b1), (b2), 6.10, 6.11.1A, 6.12.1(2)-(8), 6.12.2(b), 6.12.3(b)-(j), Schedule 6.1, S6.2.1, S6.2.2A, S6.2.2B and S6.2.3;
- (b) clauses 6.8.2(a)-(c2) are deleted and replaced with the following:
  - "(a) An affected DNSP must submit a transitional regulatory proposal to the *AER* at least 5 months before the expiry of the current regulatory control period of that affected DNSP.
  - (b) A transitional regulatory proposal must include (but need not be limited to) the following elements:
    - (1) an amount that the affected DNSP proposes will be the *annual revenue requirement* for the transitional regulatory control period, it being acknowledged that such amount will not be calculated in accordance with the provisions of the *Rules* that would otherwise apply to the calculation of the *annual revenue requirement*; and
    - (2) the elements referred to in clauses 6.8.2(c)(4), (5A) and (6) of current Chapter 6.";
- (c) in clause 6.6.1(j)(4), all the words after "the time cost of money" are deleted;
- (d) clause 6.9.3(c) of former Chapter 6 applies instead of clause 6.9.3(c) of current Chapter 6 but as if the reference to 30 *business days* were a reference to 20 *business days*;
- (e) all references in a rule (other than rule 6.10) to a draft distribution determination under rule 6.10 are deleted;

**Note:**

Rule 6.10 is excluded from transitional Chapter 6 under paragraph (a) above.

- (f) clause 6.12.1 includes as an additional constituent decision "a decision on the commencement and length of the *regulatory control period*";
- (g) the reference to "*building block proposal*" in clause 6.12.2(a)(2)(i) is replaced with a reference to "*regulatory proposal*";
- (h) in each of clauses 6.18.7(c)(3) and 6.18.7A(c)(3), all the words after "adjusts for an appropriate cost of capital" are deleted; and
- (i) any provisions of transitional Chapter 6 that pertain to:
  - (1) the resubmission or *publication* of a *regulatory proposal* (or the accompanying information) under rule 6.9;
  - (2) the *publication* of the AER's proposed *Negotiated Distribution Service Criteria*; or
  - (3) the assessment by the AER of, or consultation on, the documents and matters referred to in subparagraphs (1) and (2),

do not apply to that extent for the purposes of the AER making a distribution determination for the transitional regulatory control period.

### **11.55.3 Application of rule 11.56**

Rule 11.56 prevails to the extent of any inconsistency over any other clause of the *Rules*.

## **11.56 Special provisions applying to affected DNSPs**

### **11.56.1 Requirement to make distribution determination**

- (a) The AER must, in accordance with transitional Chapter 6 and this Division 2, make for the transitional regulatory control period a distribution determination for each *distribution system* that is owned, controlled or operated by the affected DNSP and in respect of which the AER made a distribution determination for the current regulatory control period of that affected DNSP.
- (b) A distribution determination referred to in paragraph (a) must, among other things, set out the amount that the AER approves as the affected DNSP's *annual revenue requirement* for the transitional regulatory control period in accordance with clause 11.56.3.

### **11.56.2 Transitional regulatory proposal**

#### **Requirement for transitional regulatory proposal**

- (a) A transitional regulatory proposal must comply with the requirements of transitional Chapter 6 and this Division 2.

**Additional information to accompany transitional regulatory proposal**

- (b) At the same time as an affected DNSP submits its transitional regulatory proposal to the *AER*, it must also submit the following accompanying information to the *AER*:
- (1) an indicative estimate of the value of the regulatory asset base for the relevant *distribution system* as at the beginning of the transitional regulatory control period;
  - (2) an indicative range for the rate of return that should be applied to the regulatory asset base referred to in subparagraph (1), which takes into account available market information and expected market trends, and has regard to the *Rate of Return Guidelines published* by the *AER*;
  - (3) an indicative estimate of forecast operating expenditure and capital expenditure for the transitional regulatory control period;
  - (4) an indicative estimate of the cost of corporate tax and depreciation for the transitional regulatory control period;
  - (5) an indicative range of the affected DNSP's revenue requirements, for the provision of *standard control services*, for the transitional regulatory control period and for each of the subsequent four *regulatory years*, which is based on the information and inputs referred to in subparagraphs (1) to (4) and such other information or inputs as the affected DNSP considers to be relevant and as it includes in the information that accompanies the transitional regulatory proposal;
  - (6) a summary of the affected DNSP's plan for expenditure for the transitional regulatory control period and the subsequent four *regulatory years*, together with an explanation of how this proposed expenditure is consistent with the proposed *annual revenue requirement* that is set out in the transitional regulatory proposal;
  - (7) where the control mechanism that is to apply for a *direct control service* under clause 11.56.3(a)(5) or (6) is or includes a price cap or a price control, an indicative estimate of demand (including customer numbers, energy demand and maximum demand) for that type of *direct control service* for the transitional regulatory control period and each of the subsequent four *regulatory years*;
  - (8) the revenue that the affected DNSP estimates it will earn from the provision of *standard control services* during the last *regulatory year* of its current regulatory control period; and
  - (9) such other information or inputs as the affected DNSP considers to be relevant to the approval by the *AER*, under clause 11.56.3, of its *annual revenue requirement* for the transitional regulatory control period.

### 11.56.3 Distribution determination for a transitional regulatory control period

#### Content of distribution determination - general

- (a) Without otherwise limiting the operation of clause 6.12.1 of transitional Chapter 6, a distribution determination made by the AER for an affected DNSP for the transitional regulatory control period must:
- (1) specify the same classification of *distribution services* as that which was decided for the distribution determination for the current regulatory control period of the affected DNSP, except to the extent the *framework and approach paper* that is *published* in respect of the subsequent regulatory control period of the affected DNSP provides otherwise, in which case the classification must (to that extent) be as supplemented or modified in accordance with the *framework and approach paper*;
  - (2) specify the commencement and length of the *regulatory control period* consistently with the commencement and length of the transitional regulatory control period;
  - (3) specify that no *capital expenditure sharing scheme* or *small-scale incentive scheme* applies to the affected DNSP for the transitional regulatory control period;
  - (4) specify that the D-factor scheme, *efficiency benefit sharing scheme*, *service target performance incentive scheme* and *demand management and embedded generation connection incentive scheme* that applied to the affected DNSP under the distribution determination for its current regulatory control period apply to the affected DNSP for the transitional regulatory control period subject to such modifications as are set out in the *framework and approach paper* that is *published* in respect of the subsequent regulatory control period of the affected DNSP (including as to the incentives under, and the non-application of, the relevant scheme);
  - (5) specify the same control mechanisms for *standard control services* as those which were decided for the distribution determination for the current regulatory control period of the affected DNSP, except to the extent the *framework and approach paper* that is *published* in respect of the subsequent regulatory control period of the affected DNSP provides otherwise in accordance with paragraph (h)(2), in which case the relevant control mechanisms must be as set out in that *framework and approach paper*;
  - (6) subject to paragraph (j), specify the same control mechanisms for *alternative control services* as those which were decided for the distribution determination for the current regulatory control period of the affected DNSP, except to the extent the *framework and approach paper* that is *published* in respect of the subsequent regulatory control period of the affected DNSP provides otherwise in accordance with

paragraph (h)(2), in which case the relevant control mechanisms must be as set out in that *framework and approach paper*;

- (7) specify the manner of demonstration of compliance with a relevant control mechanism as being that which was decided for the distribution determination for the current regulatory control period of the affected DNSP, except to the extent the *framework and approach paper* that is *published* in respect of the subsequent regulatory control period of the affected DNSP in accordance with paragraph (h)(2) specifies a different control mechanism, in which case the manner of demonstration of compliance with that control mechanism must be as decided by the *AER* in the distribution determination for the transitional regulatory control period;
- (8) specify, as the additional *pass through events* that are to apply for the transitional regulatory control period:
  - (i) the same additional *pass through events* that were decided in the distribution determination for the current regulatory control period of the affected DNSP; and
  - (ii) the "terrorism event" as defined in the Rules immediately prior to the date the *National Electricity Amendment (Cost pass through arrangements for Network Service Providers) Rule 2012* came into force;
- (9) specify, as the *negotiating framework* that is to apply to the affected DNSP for the transitional regulatory control period, the *negotiating framework* that was decided for the current regulatory control period of the affected DNSP;
- (10) specify, as the *Negotiated Distribution Service Criteria* for the affected DNSP, the *Negotiated Distribution Service Criteria* that were decided for the distribution determination for the current regulatory control period of the affected DNSP;
- (11) specify, as the procedures for assigning *retail customers* to *tariff classes* or reassigning *retail customers* from one *tariff class* to another, the same procedures as those which were decided for the distribution determination for the current regulatory control period of the affected DNSP;
- (12) approve, as the *pricing methodology* for any *transmission standard control services* the pricing in respect of which was regulated under Part J of Chapter 6A during the current regulatory control period of the affected DNSP, the *pricing methodology* (if any) which was approved for those services for the distribution determination for that current regulatory control period;
- (13) specify that the depreciation for establishing the regulatory asset base as at the commencement of the subsequent regulatory control period

of the affected DNSP is to be based on actual capital expenditure (if that was decided for the distribution determination for the current regulatory control period of the affected DNSP) or forecast capital expenditure (if that was decided for the distribution determination for the current regulatory control period of the affected DNSP);

- (14) specify, as the manner in which the affected DNSP is to report to the *AER* on its recovery of *designated pricing proposal charges* and *jurisdictional scheme amounts*, the manner that was decided for the current regulatory control period of the affected DNSP, except to the extent the *designated pricing proposal charge* or *jurisdictional scheme* was not subject to such a decision for that current regulatory control period, in which case the manner of reporting must (to that extent) be as decided by the *AER* in the distribution determination for the transitional regulatory control period; and
- (15) specify, as the adjustments to be made to subsequent *pricing proposals* to account for over or under recovery of any *designated pricing proposal charges* or *jurisdictional scheme amounts*, the adjustments that were decided for the current regulatory control period of the affected DNSP, except to the extent the *designated pricing proposal charge* or *jurisdictional scheme* was not subject to such a decision for that current regulatory control period, in which case the adjustments must (to that extent) be as decided by the *AER* in the distribution determination for the transitional regulatory control period.

#### **Annual revenue requirement**

- (b) The *AER* must only approve the amount that is proposed by an affected DNSP to be its *annual revenue requirement* for the transitional regulatory control period, as set out by the affected DNSP in its transitional regulatory proposal, if the *AER* is satisfied that the amount is such that the recovery of it by the affected DNSP is reasonably likely to minimise variations in prices between the affected DNSP's current regulatory control period, transitional regulatory control period and subsequent regulatory control period and between the *regulatory years* of the subsequent regulatory control period.

#### **Note:**

In deciding whether or not to approve such an amount the *AER* must also take into account the *national electricity objective* and the revenue and pricing principles: see *National Electricity Law*, s.16(1)(a) and (2)(a).

- (c) In deciding whether or not to approve an amount as referred to in paragraph (b), the *AER* must have regard to the following:
  - (1) the fact that the *annual revenue requirement* for the transitional regulatory control period is an estimate that is based on indicative inputs and that the distribution determination for the subsequent regulatory control period will make an adjustment to the *total revenue*

- requirement* for the subsequent regulatory control period in accordance with clause 11.56.4(h) and (i);
- (2) the information included in or accompanying the transitional regulatory proposal;
  - (3) submissions received in the course of consulting on the transitional regulatory proposal; and
  - (4) analysis undertaken by or for the *AER* in connection with the transitional regulatory proposal.
- (d) If the *AER* does not approve the amount that is proposed by the affected DNSP as its *annual revenue requirement* for the transitional regulatory control period, then the *AER* must approve an amount as the *annual revenue requirement* of the affected DNSP for the transitional regulatory control period that it is satisfied is such that the recovery of it by the affected DNSP is reasonably likely to minimise variations in prices between the affected DNSP's current regulatory control period, transitional regulatory control period and subsequent regulatory control period and between the *regulatory years* of the subsequent regulatory control period.

**Note:**

In deciding on such an amount, the *AER* must also take into account the *national electricity objective* and the revenue and pricing principles: see *National Electricity Law*, s.16(1)(a) and (2)(a).

- (e) A decision of the *AER* under this clause 11.56.3 to approve an amount as the *annual revenue requirement* of an affected DNSP for the transitional regulatory control period is taken to be a constituent decision for the purposes of clause 6.12.1 of transitional Chapter 6.
- (f) An amount approved by the *AER* under this clause 11.56.3 as the *annual revenue requirement* of an affected DNSP for the transitional regulatory control period is to be taken, for the purpose of the *Rules*, to be the *annual revenue requirement* of the affected DNSP for the transitional regulatory control period.

**Dual function assets**

- (g) Where the *AER* has determined, for the current regulatory control period of an affected DNSP, that pricing in respect of *transmission standard control services* provided by any *dual function assets* that are owned, controlled or operated by the affected DNSP should be regulated under Part J of Chapter 6A through the application of former Chapter 6, the *AER* is taken to have made that same determination for the transitional regulatory control period.

**Framework and approach paper**

- (h) A *framework and approach paper* that is *published* in respect of the subsequent regulatory control period of an affected DNSP may specify the

following matters in relation to the distribution determination for that affected DNSP for the transitional regulatory control period:

- (1) the classification of *distribution services* for the transitional regulatory control period (which must be the same as the classification of *distribution services* that is specified for the subsequent regulatory control period by any *framework and approach paper*);
- (2) where a *framework and approach paper* specifies a classification for *distribution services* for the transitional regulatory control period that is different from that decided for the distribution determination for the current regulatory control period, the form of, and formulae to give effect to, the control mechanism for those *distribution services* (which must be the same as the form and formulae that are specified for the subsequent regulatory control period by any *framework and approach paper*);
- (3) the modifications to be made to an incentive scheme as referred to in paragraph (a)(4);
- (4) the manner in which the prices that may be charged for *alternative control services* during the subsequent regulatory control period are to be adjusted to account for any over or under recovery of revenue earned from the provision of those services during the transitional regulatory control period; and
- (5) the treatment of any other matters relating to the transitional regulatory control period, providing that the treatment of those matters is not inconsistent with this Division 2.

#### **Allocation of costs**

- (i) For the purposes of the application of clause 6.15.2(7) of transitional Chapter 6, the transitional regulatory control period must be treated as if it were the last *regulatory year* of the current regulatory control period of the affected DNSP, and not a separate *regulatory control period*.

#### **Pricing of alternative control services**

- (j) The prices for *alternative control services* that are provided by an affected DNSP during the transitional regulatory control period must be the prices that applied as at the end of the current regulatory control period of the affected DNSP escalated by the *CPI* as at that time.

### **11.56.4 Subsequent regulatory control period**

#### **General**

- (a) Except as otherwise specified in this clause 11.56.4, current Chapter 6 governs the making of a distribution determination for the subsequent regulatory control period of an affected DNSP.



### Calculation of annual revenue requirement and other matters

- (b) Except as provided in paragraph (d), an affected DNSP must prepare and submit its *regulatory proposal* for the subsequent regulatory control period of the affected DNSP, together with all the information that is required to accompany that *regulatory proposal*, in accordance with current Chapter 6 and as if:
- (1) the subsequent regulatory control period comprised the transitional regulatory control period (as the first *regulatory year* of the subsequent regulatory control period) and all of the *regulatory years* of the subsequent regulatory control period (as the remaining *regulatory years* of the subsequent regulatory control period); and
  - (2) the transitional regulatory control period were not a separate *regulatory control period*.
- (c) For the purposes of making a distribution determination for an affected DNSP for the subsequent regulatory control period of that affected DNSP, the *AER* must determine:
- (1) the *annual revenue requirement* of the affected DNSP for each *regulatory year* of its subsequent regulatory control period;
  - (2) the *total revenue requirement* of the affected DNSP for that subsequent regulatory control period;
  - (3) the X factor for each control mechanism for each *regulatory year* of that subsequent regulatory control period; and
  - (4) the opening value of the regulatory asset base for the relevant *distribution system*,
- in accordance with current Chapter 6 (except that clause 6.5.9(b)(2) of current Chapter 6 does not apply to the determination of any X factor) and as if:
- (5) the subsequent regulatory control period comprised the transitional regulatory control period (as the first *regulatory year* of the subsequent regulatory control period) and all of the *regulatory years* of the subsequent regulatory control period (as the remaining *regulatory years* of the subsequent regulatory control period); and
  - (6) the transitional regulatory control period were not a separate *regulatory control period*.

For the avoidance of doubt, this paragraph (c) requires the *AER* to determine a notional *annual revenue requirement*, a notional X factor or X factors and a notional opening value of the regulatory asset base for the *regulatory year* that comprises the transitional regulatory control period.

- (d) The transitional regulatory control period of an affected DNSP must be treated as if it were the last *regulatory year* of the current regulatory control period of the affected DNSP, and not a separate *regulatory control period*, for the purposes of the application of the following clauses of current Chapter 6 in respect of a distribution determination for the subsequent regulatory control period of that affected DNSP: clauses 6.25(a), S6.1.1(6) and S6.1.2(7).
- (e) The transitional regulatory control period of an affected DNSP must be treated as if it were the first *regulatory year* of the subsequent regulatory control period of the affected DNSP, and not a separate *regulatory control period*, for the purposes of the application of the following clauses of current Chapter 6 in respect of a distribution determination for the affected DNSP for that subsequent regulatory control period: clauses 6.5.2(i), 6.6.5 and 6.6A.
- (f) The transitional regulatory control period of an affected DNSP must be treated as if it were the first *regulatory year* of the subsequent regulatory control period of that affected DNSP, and not a separate *regulatory control period*, for the purposes of the application of the following clauses of current Chapter 6 in respect of a distribution determination for the affected DNSP for the *regulatory control period* that follows that subsequent regulatory control period: clauses 6.5.1(e)(1), (3) and S6.2.1.
- (g) Nothing in this clause 11.56.4 has the effect of actually rendering the transitional regulatory control period as the first *regulatory year* of the subsequent regulatory control period and, except for the purposes of the application of paragraphs (b) to (f) in accordance with its terms, the transitional regulatory control period must be treated as a *regulatory control period* that is separate from the subsequent regulatory control period.

#### **Adjustment to annual revenue requirement**

- (h) An affected DNSP's *total revenue requirement* for its subsequent regulatory control period must be fully adjusted for the adjustment amount determined in accordance with paragraph (i). The adjustment must be made by increasing (where the adjustment amount is negative) or decreasing (where the adjustment amount is positive) the *annual revenue requirement* of one or more *regulatory years* of the subsequent regulatory control period as the AER considers appropriate, provided that the aggregate of all such increases or decreases for the relevant *regulatory years* is equivalent in net present value terms to the adjustment amount.
- (i) For the purposes of paragraph (h), the adjustment amount is calculated as:
  - (1) the amount of the *annual revenue requirement* that was approved for the transitional regulatory control period under clause 11.56.3(b) or (d); less

- (2) the amount of the notional *annual revenue requirement* for the transitional regulatory control period that is determined under paragraph (c),

subject to such modifications in relation to the calculation of that adjustment amount as are set out in a *framework and approach paper* that applies in respect of a distribution determination for the subsequent regulatory control period and as are necessary by virtue of the application of a price cap or price control, rather than a revenue cap or revenue control, in respect of any *standard control services* that are provided by the affected DNSP.

- (j) The determination by the *AER* of the amount of the notional *annual revenue requirement* for the transitional regulatory control period under paragraph (c), and of the adjustment amount under paragraph (i), are each taken to be constituent decisions for the purposes of clause 6.12.1 of current Chapter 6.

### **Length of subsequent regulatory control period**

- (k) If:

- (1) an affected DNSP proposes in its *regulatory proposal* a period of 4 *regulatory years* as the period for the subsequent regulatory control period of the affected DNSP, then the *AER* must, in its distribution determination for that subsequent regulatory control period, approve that period as (and that period will be) the *regulatory control period* for the affected DNSP that immediately follows the transitional regulatory control period; or

- (2) an affected DNSP proposes in its *regulatory proposal*:

- (i) a period of less than 4 *regulatory years* but not less than 3 *regulatory years*; or
- (ii) a period of more than 4 *regulatory years*;

as the period for the subsequent regulatory control period of the affected DNSP, then the *AER* may, in its distribution determination for that subsequent regulatory control period, approve that period as (in which case that period will be) the *regulatory control period* for the affected DNSP that immediately follows the transitional regulatory control period,

and the provisions of the *Rules* must be applied consistently with these requirements.

### **Modifications to framework and approach paper**

- (l) The *AER* must make the *framework and approach paper* or *papers* that apply in respect of a distribution determination for an affected DNSP for the subsequent regulatory control period of that affected DNSP in two stages, namely:

- (1) a *framework and approach paper* or *papers* for the matters referred to in clause 6.8.1(b)(1), (2)(i) and (ii) of current Chapter 6 and in clause 11.56.3(h)(1) and (2), which are collectively referred to in this Division 2 as the "Stage 1 F&A paper"; and
- (2) a *framework and approach paper* or *papers* for the matters referred to in clause 6.8.1(b)(2)(iii) to (ix) of current Chapter 6 and in clauses 11.56.3(h)(3), (4), (5) and 11.56.4(i), which are collectively referred to in this Division 2 as the "Stage 2 F&A paper".

**Note:**

The matters referred to in clause 11.56.3(h) are required to be included in the Stage 1 or Stage 2 F&A paper, as appropriate, even though they relate to the transitional regulatory control period rather than the subsequent regulatory control period.

- (m) Clause 6.8.1(a)(2) of current Chapter 6 applies in respect of the Stage 1 F&A paper and the Stage 2 F&A paper as if the words "the AER has published a notice under paragraph (c)(3) stating" were replaced with the words "the AER has decided".
- (n) The AER must decide to make a Stage 2 F&A paper, for the matters referred to in paragraph (1)(2), in accordance with current Chapter 6 (as modified by this clause 11.56.4).

**Modifications to time periods and process under current Chapter 6**

- (o) For the purposes of making a distribution determination for the subsequent regulatory control period of an affected DNSP, current Chapter 6 applies subject to the further modifications set out in the following table:

Description	Reference	Transitional treatment
Timing for a <i>Distribution Network Service Provider</i> to request the AER to make an amended or replacement <i>framework and approach paper</i> .	Clause 6.8.1(c)(1)	Clause 6.8.1(c)(1) does not apply in respect of the Stage 1 F&A paper or the Stage 2 F&A paper.
Timing for the AER to <i>publish</i> a notice inviting submissions on whether it is necessary or desirable to amend or replace a <i>framework and approach paper</i> .	Clause 6.8.1(c)(2)	Clause 6.8.1(c)(2) does not apply in respect of the Stage 1 F&A paper or the Stage 2 F&A paper.
Timing for the AER's decision on the amendment or replacement of a <i>framework and</i>	Clause 6.8.1(c)(3)	Clause 6.8.1(c)(3) and (d) do not apply in respect of the Stage 1 F&A paper or the Stage 2 F&A paper.

Description	Reference	Transitional treatment
<i>approach paper.</i>		
Timing for the <i>AER</i> to make, amend or replace a <i>framework and approach paper</i> .	Clause 6.8.1(e)	"23 months" is replaced with "27 months" for the Stage 1 F&A paper and with "17 months" for the Stage 2 F&A paper.
Timing for submission of information about forecasting methodology	Clause 6.8.1A(b)(1)	"24 months" is replaced with "19 months".
Timing for the <i>Distribution Network Service Provider</i> to submit a <i>regulatory proposal</i> .	Clause 6.8.2(b)(1)	"17 months" is replaced with "13 months".
Publication of an issues paper with respect to a <i>regulatory proposal</i> .	Clause 6.9.3(b), (b1) and (b2)	These rules do not apply.
Written submissions on <i>regulatory proposal</i> .	Clause 6.9.3(c)	Clause 6.9.3(c) of former Chapter 6 applies instead of clause 6.9.3(c) of current Chapter 6.
Written submissions on draft distribution determination.	Clause 6.10.2(c)	Clause 6.10.2(c) of former Chapter 6 applies instead of clause 6.10.2(c) of current Chapter 6.
Period in which <i>Distribution Network Service Provider</i> may submit a revised <i>regulatory proposal</i> .	Clause 6.10.3(a)	Clause 6.10.3(a) of former Chapter 6 applies instead of clause 6.10.3(a) of current Chapter 6.
Submissions on specified matters	Clause 6.10.4	This rule does not apply.
Notification of value of dual function assets	Clause 6.25(a)	"32 months" is replaced with "20 months".

- (p) For the purposes of making a distribution determination for the subsequent regulatory control period of an affected DNSP, the *AER* must:
- (1) *publish* an invitation to attend a public forum on the *regulatory proposal* submitted or resubmitted under clause 6.8.2 or 6.9.2 (as the case may be) of current Chapter 6 (as modified under paragraph (o))

and on the proposed *Negotiated Distribution Service Criteria* published under clause 6.9.3(a)(1) of current Chapter 6; and

- (2) hold a public forum on that *regulatory proposal* and those proposed *Negotiated Distribution Service Criteria* not more than 15 *business days* after the *publication* of the invitation under clause 6.9.3(a)(2) of current Chapter 6

### **Pricing proposals**

- (q) A *pricing proposal* for a *regulatory year* of the subsequent regulatory control period of an affected DNSP must comply with the requirements set out in a *framework and approach paper* under clause 11.56.3(h)(4).

## **11.56.5 Review of past capital expenditure**

For the purposes of the application of clause S6.2.2A of current Chapter 6 in respect of an affected DNSP:

- (a) the review period (as defined in clause S6.2.2A(a1) of current Chapter 6) does not include the transitional regulatory control period or any *regulatory year* that precedes the transitional regulatory control period;
- (b) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6.2.2A(d) for the purposes of determining whether the *margin requirement* has been satisfied and clause S6.2.2A(i) does not apply in respect of any margin that forms part of that excluded capital expenditure; and
- (c) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6.2.2A(e) for the purposes of determining whether the capitalisation requirement has been satisfied and clause S6.2.2A(j) does not apply in respect of any capitalised operating expenditure that forms part of that excluded capital expenditure.

## **Division 3                      Transitional provisions for NSW and Tasmanian Transmission Network Service Providers and Directlink**

### **11.57            General provisions**

#### **11.57.1        Definitions**

In this Division 3:

**affected TNSP** means the NSW TNSP or the Tasmanian TNSP.

**Amending Rules** means Schedules 2 and 3 of the *National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012*.

**commencement date** means the date the Amending Rules come into force.

**current Chapter 6A** means Chapter 6A of the *Rules* as in force immediately after the Amending Rules come into force.

**current regulatory control period** of an affected TNSP, means the *regulatory control period* for the affected TNSP that immediately precedes the transitional regulatory control period.

**Directlink** means the *Transmission Network Service Provider* that owns, controls or operates the electricity transmission link between New South Wales and Queensland known as Directlink.

**former Chapter 6A** means Chapter 6A of the *Rules* as in force immediately before the Amending Rules come into force.

**NSW TNSP** means the energy services corporation constituted under section 6A of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 1A of Schedule 1 to that Act, or any successor to its business.

**subsequent regulatory control period**, of an affected TNSP, means the *regulatory control period* for the affected TNSP that immediately follows the transitional regulatory control period.

**Note:**

The definition of *regulatory control period* for the purposes of this definition is affected by clause 11.58.4(l).

**Tasmanian TNSP** means Transend Networks Pty Ltd ACN 082 586 892 or any successor to its business.

**transitional Chapter 6A** has the meaning given to it in clause 11.57.2.

**transitional regulatory control period** means a period of one year that commences on 1 July 2014 and ends on 30 June 2015.

**transitional Revenue Proposal**, for an affected TNSP, means a *Revenue Proposal* relating to *prescribed transmission services* provided by means of, or in connection with, a *transmission system* that is owned, controlled or operated by the affected TNSP, being a *Revenue Proposal* that is for the transitional regulatory control period.

**Note:**

The definition of *Revenue Proposal* for the purposes of this definition is affected by clause 11.57.2(b).

### 11.57.2 Transitional Chapter 6A

For the purposes of this Division 3, **transitional Chapter 6A** means current Chapter 6A except that:

- (a) the following clauses are omitted: clauses 6A.4.1(b), 6A.4.2, 6A.5.1, 6A.5.3, 6A.5.4, 6A.5.5(a), (b), 6A.6.2(a)-(l), 6A.6.3, 6A.6.4, 6A.6.6, 6A.6.7, 6A.6.8, 6A.6.9, 6A.7.1, 6A.7.3(j)(6A), 6A.8, 6A.10.1A, 6A.10.1B, 6A.11.1, 6A.11.2, 6A.11.2A, 6A.11.3(b), (b1), (b2), 6A.12, 6A.13.2, 6A.13.2A, 6A.14.1(1), (2), (3), (4), (5B), (5C), (5D), (5E), (5F), 6A.14.2(b), 6A.14.3(b)-(i), Schedule 6A.1, S6A.2.1, S6A.2.2A, S6A.2.2B, S6A.2.3 and S6A.2.4;
- (b) clause 6A.10.1(a)-(h) are deleted and replaced with the following:
  - "(a) An affected TNSP must submit a transitional Revenue Proposal to the *AER* at least 5 months before the expiry of the current regulatory control period of that affected TNSP.
  - (b) A transitional regulatory proposal must include (but need not be limited to) the following matters:
    - (1) an amount that the affected TNSP proposes will be the *maximum allowed revenue* for the transitional regulatory control period, it being acknowledged that such amount will not be calculated in accordance with the provisions of the Rules that would otherwise apply to the calculation of the *maximum allowed revenue*; and
    - (2) the matters referred to in clause 6A.10.1(f)(2) of current Chapter 6A.
  - (c) The *Revenue Proposal* must comply with the requirements of, and must contain or be accompanied by such information as is required by, any relevant *regulatory information instrument*.";
- (c) in clauses 6A.7.2(i)(4) and 6A.7.3(j)(4), all the words after "the time cost of money" are deleted;
- (d) clause 6A.11.3(c) of former Chapter 6A applies instead of clause 6A.11.3(c) of current Chapter 6A but as if the reference to 30 *business days* were a reference to 20 *business days*;
- (e) all references in a rule (other than rule 6A.12) to a draft decision under rule 6A.12 are deleted;

**Note:**

Rule 6A.12 is excluded from transitional Chapter 6A under paragraph (a) above.

- (f) in clause 6A.13.3, the words "3 months" are substituted for the words "2 months";



- (g) clause 6A.14.1 includes as additional decisions:
- (1) "a decision on the commencement and length of the *regulatory control period*";
  - (2) "a decision on the values that are to be attributed to the *performance incentive scheme parameters* for any *service target performance incentive scheme* that is to apply to the *Transmission Network Service Provider* in respect of the *regulatory control period*"; and
  - (3) "a decision on the values that are to be attributed to the *efficiency benefit sharing scheme parameters* for any *efficiency benefit sharing scheme* that is to apply to the *Transmission Network Service Provider* in respect of the *regulatory control period*"; and
- (h) any provisions of transitional Chapter 6A that pertain to:
- (1) the submission or *publication* of a proposed *pricing methodology* or a proposed *negotiating framework*;
  - (2) the resubmission or *publication* of documents under rule 6A.11;
  - (3) the *publication* of the *AER's* proposed *Negotiated Transmission Service Criteria*; or
  - (4) the *publication* or assessment by the *AER* of, or consultation on, the documents and matters referred to in subparagraphs (1) to (3),
- do not apply to that extent for the purposes of the *AER* making a *transmission determination* for the transitional regulatory control period.

### **11.57.3 Application of rule 11.58**

Rule 11.58 prevails to the extent of any inconsistency over any other clause of the *Rules*.

## **11.58 Special provisions applying to affected TNSPs**

### **11.58.1 Requirement to make transmission determination**

- (a) The *AER* must, in accordance with transitional Chapter 6A and this Division 3, make for the transitional regulatory control period a *transmission determination* for each *transmission system* that is owned, controlled or operated by the affected TNSP and in respect of which the *AER* made a *transmission determination* for the current regulatory control period of that affected TNSP.
- (b) A *transmission determination* referred to in paragraph (a) must, among other things, set out the amount that the *AER* approves as the affected TNSP's *maximum allowed revenue* for the transitional regulatory control period in accordance with clause 11.58.3.

### 11.58.2 Requirement to submit a transitional Revenue Proposal

- (a) A transitional Revenue Proposal must comply with the requirements of transitional Chapter 6A and this Division 3.

#### Additional information to accompany transitional Revenue Proposal

- (b) At the same time as an affected TNSP submits its transitional Revenue Proposal to the *AER*, it must also submit the following accompanying information to the *AER*:
  - (1) an indicative estimate of the value of the regulatory asset base for the relevant *transmission system* as at the beginning of the transitional regulatory control period;
  - (2) an indicative range for the rate of return that should be applied to the regulatory asset base referred to in subparagraph (1), which takes into account available market information and expected market trends, and has regard to the *Rate of Return Guidelines published by the AER*;
  - (3) an indicative estimate of forecast operating expenditure and capital expenditure for the transitional regulatory control period;
  - (4) an indicative estimate of the cost of corporate tax and depreciation for the transitional regulatory control period;
  - (5) an indicative range of the affected TNSP's revenue requirements, for the provision of *prescribed transmission services*, for the transitional regulatory control period and for each of the subsequent four *regulatory years*, which is based on the information and inputs referred to in subparagraphs (1) to (4) and such other information or inputs as the affected TNSP considers to be relevant and as it includes in the information that accompanies the transitional Revenue Proposal;
  - (6) a summary of the affected TNSP's plan for expenditure for the transitional regulatory control period and the subsequent four *regulatory years*, together with an explanation of how this proposed expenditure is consistent with the proposed *maximum allowed revenue* that is set out in the transitional Revenue Proposal;
  - (7) the revenue that the affected TNSP estimates it will earn from the provision of *prescribed transmission services* during the last *regulatory year* of its current regulatory control period; and
  - (8) such other information or inputs as the affected TNSP considers to be relevant to the approval by the *AER*, under clause 11.58.3, of its *maximum allowed revenue* for the transitional regulatory control period.

### 11.58.3 Transmission determination for a transitional regulatory control period

#### Content of transmission determination - general

- (a) Without otherwise limiting the operation of clause 6A.14.1 of transitional Chapter 6A, a *transmission determination* made by the AER for an affected TNSP for the transitional regulatory control period must:
- (1) specify the commencement and length of the *regulatory control period* consistently with the commencement and length of the transitional regulatory control period;
  - (2) specify that no *capital expenditure sharing scheme* or *small-scale incentive scheme* applies to the affected TNSP for the transitional regulatory control period;
  - (3) specify that the *efficiency benefit sharing scheme* and *service target performance incentive scheme* that applied to the affected TNSP under the *transmission determination* for its current regulatory control period apply to the affected TNSP for the transitional regulatory control period subject to such modifications as are set out in the *framework and approach paper* that is *published* in respect of the subsequent regulatory control period of the affected TNSP (including as to the incentives under, and the non-application of, the relevant scheme);
  - (4) specify the "terrorism event" as defined in the *Rules* immediately prior to the date the *National Electricity Amendment (Cost pass through arrangements for Network Service Providers) Rule 2012* came into force as an additional *pass through event* that is to apply for the transitional regulatory control period;
  - (5) approves, as the *negotiating framework* that is to apply to the affected TNSP for the transitional regulatory control period, the *negotiating framework* that was approved as part of the *transmission determination* for the current regulatory control period of the affected TNSP;
  - (6) specify, as the *Negotiated Transmission Service Criteria* for the affected TNSP, the *Negotiated Transmission Service Criteria* that were specified as part of the *transmission determination* for the current regulatory control period of the affected TNSP; and
  - (7) approve, as the *pricing methodology* for the affected TNSP, the *pricing methodology* which was approved as part of the *transmission determination* for the current regulatory control period of the affected TNSP.

### Maximum allowed revenue

- (b) The *AER* must only approve the amount that is proposed by an affected TNSP to be its *maximum allowed revenue* for the transitional regulatory control period, as set out by the affected TNSP in its transitional Revenue Proposal, if the *AER* is satisfied that the amount is such that the recovery of it by the affected TNSP is reasonably likely to minimise variations in prices between the affected TNSP's current regulatory control period, transitional regulatory control period and subsequent regulatory control period and between the *regulatory years* of the subsequent regulatory control period.

#### Note:

In deciding whether or not to approve such an amount, the *AER* must also take into account the *national electricity objective* and the revenue and pricing principles: see *National Electricity Law*, s.16(1)(a) and (2)(a).

- (c) In deciding whether or not to approve an amount as referred to in paragraph (b), the *AER* must have regard to the following:
- (1) the fact that the *maximum allowed revenue* for the transitional regulatory control period is an estimate that is based on indicative inputs and that the *transmission determination* for the subsequent regulatory control period will make an adjustment to the *total revenue cap* for the subsequent regulatory control period in accordance with clause 11.58.4(i) and (j);
  - (2) the information included in or accompanying the transitional Revenue Proposal;
  - (3) submissions received in the course of consulting on the transitional Revenue Proposal; and
  - (4) analysis undertaken by or for the *AER* in connection with the transitional Revenue Proposal.
- (d) If the *AER* does not approve the amount that is proposed by the affected TNSP as its *maximum allowed revenue* for the transitional regulatory control period, then the *AER* must approve an amount as the *maximum allowed revenue* of the affected TNSP for the transitional regulatory control period that it is satisfied is such that the recovery of it by the affected TNSP is reasonably likely to minimise variations in prices between the affected TNSP's current regulatory control period, transitional regulatory control period and subsequent regulatory control period and between the *regulatory years* of the subsequent regulatory control period.

#### Note:

In deciding on such an amount, the *AER* must also take into account the *national electricity objective* and the revenue and pricing principles: see *National Electricity Law*, s.16(1)(a) and (2)(a).

- (e) A decision of the *AER* under this clause 11.58.3 to approve an amount as the *maximum allowed revenue* of an affected TNSP for the transitional

regulatory control period is taken to be a decision for the purposes of clause 6A.14.1 of transitional Chapter 6A.

- (f) An amount approved by the *AER* under this clause 11.58.3 as the *maximum allowed revenue* of an affected TNSP for the transitional regulatory control period is to be taken, for the purpose of the *Rules*, to be the *maximum allowed revenue* of the affected TNSP for the transitional regulatory control period.

#### **Framework and approach paper**

- (g) A *framework and approach paper* that is *published* in respect of the subsequent regulatory control period of an affected TNSP may specify the following matters in relation to the *transmission determination* for that affected TNSP for the transitional regulatory control period:
  - (1) the modifications to be made to an incentive scheme as referred to in paragraph (a)(3); and
  - (2) the treatment of any other matters relating to the transitional regulatory control period, providing that the treatment of those matters is not inconsistent with this Division 3.

#### **Pricing methodology guidelines**

- (h) An amendment or replacement of the *pricing methodology guidelines* that is made after the commencement date will have no effect in respect of the *pricing methodology* that applies for a transitional regulatory control period.

### **11.58.4 Subsequent regulatory control period**

#### **General**

- (a) Except as otherwise specified in this clause 11.58.4, current Chapter 6A will govern the making of a *transmission determination* for the subsequent regulatory control period of an affected TNSP.

#### **Calculation of maximum allowed revenue and other matters**

- (b) Except as provided in paragraph (d), an affected TNSP must prepare and submit its *Revenue Proposal* for the subsequent regulatory control period of the affected TNSP, together with all the information that is required to accompany that *Revenue Proposal*, in accordance with current Chapter 6A and as if:
  - (1) the subsequent regulatory control period comprised the transitional regulatory control period (as the first *regulatory year* of the subsequent regulatory control period) and all of the *regulatory years* of the subsequent regulatory control period (as the remaining *regulatory years* of the subsequent regulatory control period); and

- (2) the transitional regulatory control period were not a separate *regulatory control period*.
- (c) For the purposes of making a *transmission determination* for an affected TNSP for the subsequent regulatory control period of that affected TNSP, the AER must determine:
  - (1) the *maximum allowed revenue* of the affected TNSP for each *regulatory year* of its subsequent regulatory control period;
  - (2) the *total revenue cap* of the affected TNSP for the subsequent regulatory control period;
  - (3) the X factor for each *regulatory year* of that subsequent regulatory control period; and
  - (4) the opening value of the regulatory asset base for the relevant *transmission system*,

in accordance with current Chapter 6A (except that clause 6A.6.8(c)(2) of current Chapter 6A does not apply to the determination of any X factor) and as if:

- (5) the subsequent regulatory control period comprised the transitional regulatory control period (as the first *regulatory year* of the subsequent regulatory control period) and all of the *regulatory years* of the subsequent regulatory control period (as the remaining *regulatory years* of the subsequent regulatory control period); and
- (6) the transitional regulatory control period were not a separate *regulatory control period*.

For the avoidance of doubt, this paragraph (c) requires the AER to determine a notional *maximum allowed revenue*, a notional X factor and a notional opening value of the regulatory asset base for the *regulatory year* that comprises the transitional regulatory control period.

- (d) The transitional regulatory control period of an affected TNSP must be treated as if it were the last *regulatory year* of the current regulatory control period of the affected TNSP, and not a separate *regulatory control period*, for the purposes of the application of the following clauses of current Chapter 6A in respect of a *transmission determination* for the subsequent regulatory control period of that affected TNSP: clauses S6A.1.1(6) and S6A.1.2(7).
- (e) The transitional regulatory control period of an affected TNSP must be treated as if it were the first *regulatory year* of the subsequent regulatory control period of that affected TNSP, and not a separate *regulatory control period*, for the purposes of the application of the following clauses of current Chapter 6A in respect of a *transmission determination* for the affected TNSP for that subsequent regulatory control period: clauses 6A.6.2(i), 6A.6.3(c)(2), 6A.7.1 and 6A.8.

- (f) The transitional regulatory control period of an affected TNSP must be treated as if it were the first *regulatory year* of the subsequent regulatory control period of that affected TNSP, and not a separate *regulatory control period*, for the purposes of the application of the following clauses of current Chapter 6A in respect of a *transmission determination* for the affected TNSP for the regulatory control period that follows that subsequent *regulatory control period*: clauses 6A.6.1(e)(1), (3), S6A.2.1 and S6A.2.3(a).
- (g) Nothing in this clause 11.58.4 has the effect of actually rendering the transitional regulatory control period as the first *regulatory year* of the subsequent regulatory control period and, except for the purposes of the application of paragraphs (b) to (f) in accordance with its terms, the transitional regulatory control period must be treated as a *regulatory control period* that is separate from the subsequent regulatory control period.
- (h) For the purposes only of the application of clause 6A.7.2 of current Chapter 6A in respect of *network support payments* made by an affected TNSP during the transitional regulatory control period, the following provisions apply:
  - (1) for the purposes of the application of clause 6A.7.2 of current Chapter 6A and the definition of "network support pass through amount" in Chapter 10, but not for the purposes of the definitions of "network support event", "negative network support event" and "positive network support event" in Chapter 10, a *network support event* arising out of *network support payments* made during the transitional regulatory control period will be taken to have occurred instead in the first year of the subsequent regulatory control period of that affected TNSP; and
  - (2) for the purposes of the definitions of "network support event", "negative network support event" and "positive network support event" in Chapter 10, the relevant *annual building block revenue requirement* and capital expenditure allowance will be those which are used in the calculation of the notional *maximum allowed revenue* for the transitional regulatory control period under paragraph (c).

#### **Adjustment to maximum allowed revenue**

- (i) An affected TNSP's *total revenue cap* for its subsequent regulatory control period must be fully adjusted for the adjustment amount determined in accordance with paragraph (j). The adjustment must be made by increasing (where the adjustment amount is negative) or decreasing (where the adjustment amount is positive) the *maximum allowed revenue* of one or more *regulatory years* of the subsequent regulatory control period as the *AER* considers appropriate, provided that the aggregate of all such increases or decreases for the relevant *regulatory years* is equivalent in net present value terms to the adjustment amount.
- (j) For the purposes of paragraph (i), the adjustment amount is calculated as:

- (1) the amount of the *maximum allowed revenue* that was approved for the transitional regulatory control period under clause 11.58.3(b) or (d); less
- (2) the amount of the notional *maximum allowed revenue* for the transitional regulatory control period that is determined under paragraph (c).
- (k) The determination by the *AER* of the amount of the notional *maximum allowed revenue* for the transitional regulatory control period under paragraph (c), and of the adjustment amount under paragraph (j), are each taken to be decisions for the purposes of clause 6A.14.1 of current Chapter 6A.

**Length of subsequent regulatory control period**

- (l) If:
  - (1) an affected TNSP proposes in its *Revenue Proposal* a period of 4 *regulatory years* as the period for the subsequent regulatory control period of the affected TNSP, then the *AER* must, in its *transmission determination* for that subsequent regulatory control period, approve that period as (and that period will be) the *regulatory control period* for the affected TNSP that immediately follows the transitional regulatory control period; or
  - (2) an affected TNSP proposes in its *Revenue Proposal*:
    - (i) a period of less than 4 *regulatory years* but not less than 3 *regulatory years*; or
    - (ii) a period of more than 4 *regulatory years*,as the period for the subsequent regulatory control period of the affected TNSP, then the *AER* may, in its *transmission determination* for that subsequent regulatory control period, approve that period as (in which case that period will be) the *regulatory control period* for the affected TNSP that immediately follows the transitional regulatory control period,

and the provisions of the *Rules* must be applied consistently with these requirements.

**Framework and approach paper**

- (m) The *AER* must make a *framework and approach paper* or *papers* that apply in respect of a *transmission determination* for an affected TNSP for the subsequent regulatory control period of that affected TNSP, for the matters referred to in clause 6A.10.1A(b) of current Chapter 6A and in clause 11.58.3(g), in accordance with current Chapter 6A (as modified by this clause 11.58.4).



**Note:**

The matters referred to in clause 11.58.3(g) are required to be included in the *framework and approach paper* even though they relate to the transitional regulatory control period rather than the subsequent regulatory control period.

**Modifications to time periods and process current Chapter 6A – NSW TNSP, Tasmanian TNSP and Directlink**

- (n) For the purposes of making a *transmission determination* for the subsequent *regulatory control period* of an affected TNSP or for the *regulatory control period* commencing 1 July 2015 for Directlink, current Chapter 6A applies subject to the further modifications set out in the following table:

Description	Reference	Transitional treatment
Timing for the <i>AER</i> to make a <i>framework and approach paper</i>	Clause 6A.10.1A(e)	"23 months" is replaced with "17 months".
Timing for submission of information about forecasting methodology.	Clause 6A.10.1B(b)(1)	"24 months" is replaced with "19 months".
Timing for the <i>Transmission Network Service Provider</i> to submit a <i>Revenue Proposal, pricing methodology and negotiating framework</i> .	Clause 6A.10.1(a)(1)	"17 months" is replaced with "13 months".
Publication of an issues paper with respect to a <i>Revenue Proposal, pricing methodology and negotiating framework</i> .	Clause 6A.11.3(b), (b1) and (b2)	These rules do not apply.
Written submissions on a <i>Revenue Proposal</i> .	Clause 6A.11.3(c)	Clause 6A.11.3(c) of former Chapter 6A applies instead of clause 6A.11.3(c) of current Chapter 6A.
Written submissions on draft decision.	Clause 6A.12.2(c)	Clause 6A.12.2(c) of former Chapter 6A applies instead of clause 6A.12.2(c) of current Chapter 6A but as if "30

Description	Reference	Transitional treatment
		<i>business days</i> " were substituted for "45 <i>business days</i> ".
Period in which a <i>Transmission Network Service Provider</i> may submit a revised <i>Revenue Proposal</i> , <i>pricing methodology</i> or <i>negotiating framework</i> .	Clause 6A.12.3(a)	Clause 6A.12.3(a) of former Chapter 6A applies instead of clause 6A.12.3(a) of current Chapter 6A.
Submissions on specified matters.	Clause 6A.12.4	This rule does not apply.

- (o) For the purposes of making a *transmission determination* for the subsequent regulatory control period of an affected TNSP or for the *regulatory control period* commencing 1 July 2015 for Directlink, the *AER* must:
- (1) *publish* an invitation to attend a public forum on the *Revenue Proposal*, the proposed *negotiating framework*, the proposed *pricing methodology* and the information submitted or resubmitted under clause 6A.10.1 or clause 6A.11.2 (as the case may be) of current Chapter 6A (as modified under paragraph (n)) and on the proposed *Negotiated Transmission Service Criteria published* under clause 6A.11.3(a)(5) of current Chapter 6A; and
  - (2) hold a public forum on that *Revenue Proposal*, that proposed *negotiating framework*, that proposed *pricing methodology*, that information and those proposed *Negotiated Transmission Service Criteria* not more than 15 *business days* after the *publication* of the invitation under clause 6A.11.3(a)(6) of current Chapter 6A.

### 11.58.5 Review of past capital expenditure

For the purposes of the application of clause S6A.2.2A of current Chapter 6A in respect of an affected TNSP:

- (a) the review period (as defined in clause S6A.2.2A(a1) of current Chapter 6A) does not include the transitional regulatory control period or any *regulatory year* that precedes the transitional regulatory control period;
- (b) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6A.2.2A(d) for the purposes of determining whether the *margin requirement* has been satisfied and clause S6A.2.2A(i) does not apply in

respect of any margin that forms part of that excluded capital expenditure;  
and

- (c) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were published or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6A.2.2A(e) for the purposes of determining whether the *capitalisation requirement* has been satisfied and clause S6A.2.2A(j) does not apply in respect of any capitalised operating expenditure that forms part of that excluded capital expenditure.

## **Division 4            Transitional provisions for the Victorian TNSP**

### **11.59      Special provisions applying to the Victorian TNSP**

#### **11.59.1    Definitions**

In this Division 4:

**Amending Rules** means Schedules 2 and 3 of the *National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012*.

**commencement date** means the date the Amending Rules come into force.

**current Chapter 6A** means Chapter 6A of the *Rules* as in force immediately after the Amending Rules come into force.

**current regulatory control period** means the *regulatory control period* for the Victorian TNSP that ends on 31 March 2014.

**former Chapter 6A/10** means Chapters 6A and 10 of the *Rules* as in force immediately before the Amending Rules come into force.

**next regulatory control period** means the *regulatory control period* for the Victorian TNSP that immediately follows the current regulatory control period.

**Victorian TNSP** means SPI PowerNet Pty Ltd ACN 079 798 173 or any successor to its business.

#### **11.59.2    Application of rule 11.59**

This rule 11.59 prevails to the extent of any inconsistency over any other clause of the *Rules*.

#### **11.59.3    Former Chapter 6A/10 applies**

- (a) Subject to paragraph (b), former Chapter 6A/10 applies in respect of the making of a *transmission determination* for the Victorian TNSP for the next regulatory control period.

- (b) A *transmission determination* for the Victorian TNSP for the next regulatory control period must specify that the next regulatory control period commences on 1 April 2014 and ends on 31 March 2017, and the provisions of the *Rules* must be applied consistently with this requirement.

#### 11.59.4 Review of past capital expenditure

For the purposes of the application of clause S6A.2.2A of current Chapter 6A in respect of the Victorian TNSP:

- (a) the review period (as defined in clause S6A.2.2A(a1) of current Chapter 6A) does not include the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any *regulatory year* that precedes that *regulatory year*;
- (b) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6A.2.2A(d) for the purposes of determining whether the *margin requirement* has been satisfied and clause S6A.2.2A(i) does not apply in respect of any margin that forms part of that excluded capital expenditure; and
- (c) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6A.2.2A(e) for the purposes of determining whether the *capitalisation requirement* has been satisfied and clause S6A.2.2A(j) does not apply in respect of any capitalised operating expenditure that forms part of that excluded capital expenditure.

### Division 5 Transitional provisions for Qld/SA and Victorian Distribution Network Service Providers

#### 11.60 Special provisions applying to the Qld/SA and Victorian Distribution Network Service Providers

##### 11.60.1 Definitions

In this Division 5:

**affected DNSP** means a Qld/SA DNSP or a Victorian DNSP.

**Amending Rules** means Schedules 1 and 3 of the *National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012*.

**current Chapter 6** means Chapter 6 of the *Rules* as in force immediately after the Amending Rules come into force.

**current regulatory control period**, of an affected DNSP, means:

- (a) for a Qld/SA DNSP, the *regulatory control period* that ends on 30 June 2015; and
- (b) for a Victorian DNSP, the *regulatory control period* that ends on 31 December 2015.

**former Chapter 6** means Chapter 6 of the *Rules* as in force immediately before the Amending Rules come into force.

**Qld/SA DNSP** means each of the following *Distribution Network Service Providers*:

- (a) Energex Limited ACN 078 849 055 or any successor to its business;
- (b) Ergon Energy Corporation Limited ACN 087 646 062 or any successor to its business; and
- (c) SA Power Networks (formerly known as ETSA Utilities) ABN 13 332 330 749 or any successor to its business.

**next regulatory control period**, of an affected DNSP, means the *regulatory control period* for the affected DNSP that immediately follows the current regulatory control period.

**Note:**

The definition of *regulatory control period* for the purposes of this definition is affected by clause 11.60.3(d).

**Victorian DNSP** means each of the following *Distribution Network Service Providers*:

- (a) United Energy Distribution Pty Ltd ACN 064 651 029 or any successor to its business;
- (b) Jemena Electricity Networks (Vic) Limited ACN 064 651 083 or any successor to its business;
- (c) CitiPower Pty ACN 064 651 056 or any successor to its business;
- (d) Powercor Australia Limited ACN 064 651 109 or any successor to its business; and
- (e) SPI Electricity Pty Limited ACN 064 651 118 or any successor to its business.

## **11.60.2 Application of rule 11.60**

This rule 11.60 prevails to the extent of any inconsistency over any other clause of the *Rules*.

### 11.60.3 Distribution determination for next regulatory control period

- (a) Subject to paragraphs (b), (c) and (d), current Chapter 6 applies in respect of the making of a distribution determination for an affected DNSP for the next regulatory control period of that affected DNSP.
- (b) For the purposes of making a distribution determination for the next regulatory control period of an affected DNSP:
  - (1) the following clauses of current Chapter 6 do not apply: clauses 6.5.9(b)(2), 6.9.3(b), (b1), (b2), 6.10 and 6.11.1A;
  - (2) all references in a rule (other than rule 6.10) to a draft distribution determination under rule 6.10 are deleted; and
  - (3) the *AER* must:
    - (i) *publish* an invitation to attend a public forum on the *regulatory proposal* submitted or resubmitted under clause 6.8.2 or 6.9.2 (as the case may be) of current Chapter 6 (as modified under paragraph (c)) and on the proposed *Negotiated Distribution Service Criteria published* under clause 6.9.3(a)(1) of current Chapter 6; and
    - (ii) hold a public forum on that *regulatory proposal* and those proposed *Negotiated Distribution Service Criteria* not more than 15 *business days* after the *publication* of the invitation under clause 6.9.3(a)(2) of current Chapter 6.
- (c) For the purposes of making a distribution determination for the next regulatory control period of an affected DNSP, current Chapter 6 is subject to the further modifications set out in the following table:

Description	Reference	Transitional treatment
Timing for a <i>Distribution Network Service Provider</i> to request the <i>AER</i> to make an amended or replacement <i>framework and approach paper</i> .	Clause 6.8.1(c)(1)	"32 months" is replaced with "23 months".
Timing for the <i>AER</i> to <i>publish</i> a notice inviting submissions on whether it is necessary or desirable to amend or replace a <i>framework and approach paper</i> .	Clause 6.8.1(c)(2)	"31 months" is replaced with "22 months".

Description	Reference	Transitional treatment
Timing for the <i>AER's</i> decision on the amendment or replacement of a <i>framework and approach paper</i> .	Clause 6.8.1(c)(3)	"30 months" is replaced with "21 months".
Timing for the <i>AER</i> to make, amend or replace a <i>framework and approach paper</i> .	Clause 6.8.1(e)	"23 months" is replaced with "14 months".
Timing for submission of information about forecasting methodology	Clause 6.8.1A(b)(1)	"24 months" is replaced with "19 months".
Timing for the <i>Distribution Network Service Provider</i> to submit a <i>regulatory proposal</i> .	Clause 6.8.2(b)(1)	"17 months" is replaced with "8 months".
Written submissions on <i>regulatory proposal</i> .	Clause 6.9.3(c)	Clause 6.9.3(c) of former Chapter 6 applies instead of clause 6.9.3(c) of current Chapter 6.
Notification of value of dual function assets	Clause 6.25(a)	"32 months" is replaced with "23 months".
Timing of value of dual function assets	Clause 6.25(a)	"36 months" is replaced with "24 months"

- (d) If an affected DNSP proposes in its *regulatory proposal* a period of less than 5 *regulatory years* but not less than 3 *regulatory years* as the period for the next regulatory control period of the affected DNSP, then the *AER* may, in its distribution determination for the next regulatory control period, approve that period as (in which case that period will be) the *regulatory control period* for the affected DNSP that immediately follows the current regulatory control period, and the provisions of the *Rules* must be applied consistently with these requirements.

#### 11.60.4 Re-opening of distribution determination for next regulatory control period

- (a) At the same time as the *AER publishes* the distribution determination for the next regulatory control period of an affected DNSP under clause 6.11.2 of current Chapter 6, the *AER* must also *publish* an invitation for written submissions on the revocation and substitution of that distribution determination.
- (b) Any person may make a written submission to the *AER* in relation to the revocation and substitution of the distribution determination referred to in paragraph (a) within the time period specified in the invitation referred to in that clause, which must not be earlier than 45 *business days* after the making of that distribution determination. Without otherwise limiting the manner in which the affected DNSP may make such submissions, the affected DNSP may make a submission in the form of revisions to the *regulatory proposal* that it submitted to the *AER* in relation to the distribution determination referred to in paragraph (a).
- (c) No later than 8 months before the commencement of the second *regulatory year* of the next regulatory control period of an affected DNSP, the *AER* must revoke the distribution determination for that next regulatory control period and make a new distribution determination in substitution for the revoked determination which takes effect as at the date it is made and applies in respect of the next regulatory control period.
- (d) The new distribution determination made under paragraph (c) must provide for the following adjustments:
  - (1) for *standard control services*, the affected DNSP's *total revenue requirement* for the next regulatory control period must be fully adjusted for the amount determined in accordance with paragraph (e). The adjustment must be made by increasing (where the adjustment amount is negative) or decreasing (where the adjustment amount is positive) the *annual revenue requirement* of one or more remaining *regulatory years* of the next regulatory control period as the *AER* considers appropriate provided that the aggregate of all such increases or decreases for the relevant *regulatory years* is equivalent in net present value terms to the adjustment amount; and
  - (2) for *alternative control services*, such adjustments as are required to accommodate any difference between revenues or prices that are approved, under or as a result of the revoked determination, for the first *regulatory year* of the next regulatory control period and revenues and prices that are approved, under or as a result of the new distribution determination, for that first *regulatory year* (including, if appropriate through providing for adjustments to any existing or future approved *pricing proposals*). Any such adjustments must be made such that they are equivalent in net present value terms to that difference.



- (e) For the purposes of paragraph (d), the adjustment amount is calculated as:
- (1) the amount of the *annual revenue requirement* that was approved for the first *regulatory year* of the next regulatory control period in the revoked determination; less
  - (2) the amount of the *annual revenue requirement* for the first *regulatory year* of the next regulatory control period that is determined in the new distribution determination,

subject to such modifications in relation to the calculation of that adjustment amount as are necessary by virtue of the application of a price cap or price control, rather than a revenue cap or revenue control, in respect of any *standard control services* that are provided by the affected DNSP.

- (f) In making a new distribution determination as referred to in paragraph (c), and subject to rule 6.14 of current Chapter 6 (as modified by paragraphs (g) and (h) below), the *AER* must have regard to each of the following:
- (1) the matters it would be required to have regard to if it were making a final distribution determination under current Chapter 6 subsequent to it making a draft distribution determination that is the same as the revoked determination including (except where subparagraph (3) below applies) the *regulatory proposal* that was submitted to the *AER* in relation to the revoked determination;
  - (2) written submissions received under paragraph (b);
  - (3) any revisions to the *regulatory proposal* that was submitted to the *AER* in relation to the revoked determination and that are given to the *AER* under paragraph (b); and
  - (4) any analysis undertaken by or for the *AER* that is *published* prior to the making of the distribution determination or as part of the distribution determination.
- (g) Clauses 6.5.6(e)(12) and 6.5.7(e)(12) of current Chapter 6 apply for the purposes of paragraph (f) as if each reference in those clauses to the affected DNSP's revised *regulatory proposal* under clause 6.10.3 was instead a reference to the affected DNSP's *regulatory proposal* in relation to the revoked determination.
- (h) Clause 6.5.9(b)(2) does not apply for the purposes of making a new distribution determination as referred to in paragraph (c).
- (i) In making a new distribution determination as referred to in paragraph (c), the *AER* must make each of the decisions referred to in clause 6.12.1 of current Chapter 6.
- (j) Rule 6.14 of current Chapter 6 applies for the purposes of paragraph (f) as if the words "or clause 11.60.4(a)" were inserted after the word "Chapter" in paragraph (c) of that rule.

- (k) The *AER* must use its best endeavours to *publish*, a reasonable time prior to the making of the new distribution determination referred to in paragraph (c), any analysis undertaken by or for it on which it proposes to rely, or to which it proposes to refer, for the purposes of that new distribution determination.
- (l) The *AER* must as soon as practicable *publish*:
  - (1) notice of the making of a new distribution determination under paragraph (c);
  - (2) the new distribution determination itself; and
  - (3) the *AER's* reasons for making the new distribution determination, including such decisions made by it as are referred to in rule 6.12.

### 11.60.5 Review of past capital expenditure

For the purposes of the application of clause S6.2.2A of current Chapter 6 in respect of an affected DNSP:

- (a) the review period (as defined in clause S6.2.2A(a1) of current Chapter 6) does not include the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any *regulatory year* that precedes that *regulatory year*;
- (b) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6.2.2A(d) for the purposes of determining whether the *margin requirement* has been satisfied and clause S6.2.2A(i) does not apply in respect of any margin that forms part of that excluded capital expenditure; and
- (c) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6.2.2A(e) for the purposes of determining whether the *capitalisation requirement* has been satisfied and clause S6.2.2A(j) does not apply in respect of any capitalised operating expenditure that forms part of that excluded capital expenditure.

## Division 6 Review of past capital expenditure

### 11.61 Definitions and application

- (a) In this Division 6:

**Amending Rules** means the *National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012*.

**current Chapter 6** means Chapter 6 of the *Rules* as in force immediately after Schedules 1 and 3 of the Amending Rules come into force.

**current Chapter 6A** means Chapter 6A of the *Rules* as in force immediately after Schedules 2 and 3 of the Amending Rules come into force.

(b) This Division 6 applies to:

- (1) a *Distribution Network Service Provider* that is not an affected DNSP under Division 2 or an affected DNSP under Division 5; and
- (2) a *Transmission Network Service Provider* that is not an affected TNSP under Division 3 or the Victorian TNSP under Division 4.

## 11.62 Review of past capital expenditure under Chapter 6

For the purposes of the application of clause S6.2.2A of current Chapter 6 in respect of a *Distribution Network Service Provider* to which this Division 6 applies:

- (a) the review period (as defined in clause S6.2.2A(a1) of current Chapter 6) does not include the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any *regulatory year* that precedes that *regulatory year*;
- (b) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6.2.2A(d) for the purposes of determining whether the *margin requirement* has been satisfied and clause S6.2.2A(i) does not apply in respect of any margin that forms part of that excluded capital expenditure; and
- (c) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6.2.2A(e) for the purposes of determining whether the *capitalisation requirement* has been satisfied and clause S6.2.2A(j) does not apply in respect of any capitalised operating expenditure that forms part of that excluded capital expenditure.

## 11.63 Review of past capital expenditure under Chapter 6A

For the purposes of the application of clause S6A.2.2A of current Chapter 6A in respect of a *Transmission Network Service Provider* to which this Division 6 applies:

- (a) the review period (as defined in clause S6A.2.2A(a1) of current Chapter 6A) does not include the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any *regulatory year* that precedes that *regulatory year*;

- (b) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6A.2.2A(d) for the purposes of determining whether the *margin requirement* has been satisfied and clause S6A.2.2A(i) does not apply in respect of any margin that forms part of that excluded capital expenditure; and
- (c) capital expenditure incurred in the *regulatory year* in which the first *Capital Expenditure Incentive Guidelines* were *published* or any prior *regulatory year* is excluded from the capital expenditure referred to in clause S6A.2.2A(e) for the purposes of determining whether the *capitalisation requirement* has been satisfied and clause S6A.2.2A(j) does not apply in respect of any capitalised operating expenditure that forms part of that excluded capital expenditure.

**Note**

Part ZX of Chapter 11 (including rule 11.64) will be inserted by the *National Electricity Amendment (National Electricity Amendment (Inter-regional Transmission Charging) Rule 2013 No. 1* which commences on 1 July 2014.

## **Part ZY Network Service Provider Expenditure Objectives**

### **11.65 Rules consequent on the making of the National Electricity Amendment (Network Service Provider Expenditure Objectives) Rule 2013**

#### **11.65.1 Definitions**

For the purposes of this rule 11.65:

**Amending Rule** means the *National Electricity Amendment (Network Service Provider Expenditure Objectives) Rule 2013*.

**commencement date** means the date of commencement of the Amending Rule.

#### **11.65.2 Application of rule 11.65**

From the commencement date, despite clauses 11.55.3, 11.57.3 and 11.60.2, in rules 11.55 to 11.60, references to:

- (a) 'current Chapter 6' are to be read as Chapter 6 of the *Rules* as in force immediately after the Amending Rule comes into force; and
- (b) 'current Chapter 6A' are to be read as Chapter 6A of the *Rules* as in force immediately after the Amending Rule comes into force.

## Part ZZ Access to NMI Standing Data

### 11.66 Rules consequent on the making of the National Electricity Amendment (Access to NMI Standing Data) Rule 2013

#### 11.66.1 Definitions

In this rule 11.66:

**Amending Rule** means the *National Electricity Amendment (Access to NMI Standing Data) Rule 2013*.

**Commencement Date** means the date on which the Amending Rule commences operation.

#### 11.66.2 Minor amendment of the Market Settlement and Transfer Solution Procedures

If, and only to the extent of, amending the *Market Settlement and Transfer Solution Procedures* to take into account the Amending Rule, AEMO:

- (a) is not required to comply with the *Rules consultation procedures*;
- (b) within 10 months after the Commencement Date, must:
  - (1) publish a notice on its website that it intends to amend the *Market Settlement and Transfer Solution Procedures* to take into account the Amending Rule;
  - (2) make available on its website a copy of the *Market Settlement and Transfer Solution Procedures* marked up with the proposed amendments to take into account the Amending Rule; and
  - (3) invite submissions on procedures made available under subparagraph (2) for a period of not less than 14 days; and
- (c) not later than 12 months after the Commencement Date, must:
  - (1) consider submissions received under paragraph (b)(3);
  - (2) make available on its website a description of submissions it considered under subparagraph (1) with an explanation how it considered those submissions;
  - (3) publish on its website a notice that the *Market Settlement and Transfer Solution Procedures* has been amended to take into account the Amending Rule; and
  - (4) on the same day as the notice referred to in subparagraph (3), make available on its website the amended the *Market Settlement and Transfer Solution Procedures*.

## Part ZZA Publication of Zone Substation Data

### 11.67 Rules consequent on the making of the National Electricity Amendment (Publication of Zone Substation Data) Rule 2014

#### 11.67.1 Definitions

In this rule 11.67:

**Amending Rule** means the *National Electricity Amendment (Publication of Zone Substation Data) Rule 2014*.

**Commencement Date** means the date on which the Amending Rule commences operation.

**DAPR date** has the meaning given to it in clause 5.13.2(a).

#### 11.67.2 Distribution Network Service Providers' obligations to commence on the next DAPR date

Despite rule 5.13A:

- (a) a *Distribution Network Service Provider* is not required to comply with its obligations under rule 5.13A until the first DAPR date for that *Distribution Network Service Provider* after the Commencement Date; and
- (b) a person may not make a request to a *Distribution Network Service Provider* under clause 5.13A(e) until the first DAPR date for that *Distribution Network Service Provider* after the Commencement Date.

## Appendix 1 Form in which Chapter 6 applies to New South Wales and the Australian Capital Territory for the Regulatory Control Period 2009-2014

### Note:

This Appendix contains transitional Chapter 6 and is based on general Chapter 6. Matter omitted from numbered provisions of general Chapter 6 is indicated by a row of asterisks (\*\*\*\*\*).

## Chapter 6 Economic Regulation of Distribution Services

### Part A Introduction

#### 6.1 Introduction to Chapter 6

##### 6.1.1 AER's regulatory responsibility

The *AER* is responsible, in accordance with this Chapter, for the economic regulation of *distribution services* provided by means of, or in connection with, *distribution systems* that form part of the *national grid*.

##### 6.1.2 Structure of this Chapter

- (a) This Chapter deals with the classification and economic regulation of *distribution services*.
- (b) It is divided into parts as follows:
  - (1) this Part is introductory;
  - (2) Part B provides for the classification of *distribution services* and forms of control for *standard control services* and confers power on the *AER* to determine the forms of control for *alternative control services*, and to make distribution determinations;
  - (3) Part C sets out the building block approach to the regulation of services classified as *standard control services*;
  - (4) Part D regulates the prices that may be charged by EnergyAustralia for the provision of services classified as *negotiated distribution services*;
  - (4A) Part DA regulates the prices for negotiable components of *direct control services* (NSW and ACT);
  - (5) Part E sets out the procedures for making a distribution determination;
  - (6) Part F regulates cost allocation;
  - (7) \*\*\*\*\*
  - (8) Part H deals with ring-fencing;
  - (9) Part I deals with *tariff classes* and tariffs;
  - (10) Part J deals with billing and settlements;
  - (11) Part K deals with prudential requirements, prepayments and capital contributions;

- (12) Part L deals with dispute resolution;
- (13) Part M deals with the disclosure of transmission and distribution charges.

### **6.1.3 Access to direct control services and negotiated distribution services**

- (a) Subject to and in accordance with the *Rules*:
  - (1) a person (a *Service Applicant*) may apply to a *Distribution Network Service Provider* for provision of *direct control services* or *negotiated distribution services*;
  - (2) a *Distribution Network Service Provider* must provide *direct control services* or *negotiated distribution services* (as the case may be) on *terms and conditions of access* as determined under Chapters 4, 5, this Chapter 6 and Chapter 7 of the *Rules*.
- (b) The *terms and conditions of access* are:
  - (1) in relation to *negotiated distribution services*:
    - (i) the price of those services (including, if relevant, *access charges*); and
    - (ii) other terms and conditions for the provision of those services;
  - (2) in relation to *direct control services*:
    - (i) subject to Part DA:
      - (A) the price of those services under the *approved pricing proposal*, except as provided by subsubparagraph (B); and
      - (B) in the case of EnergyAustralia's prescribed (transmission) standard control services, the price of those services under EnergyAustralia's approved pricing methodology; and
    - (ii) other terms and conditions for the provision of those services.

### **6.1.4 Prohibition of DUOS charges for the export of energy**

- (a) A *Distribution Network Service Provider* must not charge a *Distribution Network User* *distribution use of system charges* for the export of electricity generated by the user into the *distribution network*.
- (b) This does not, however, preclude charges for the provision of *connection services*.



**6.1.5 Application of this Chapter to certain transmission assets – ActewAGL, Country Energy and Integral Energy Australia**

- (a) This clause 6.1.5 applies to ActewAGL, Country Energy and Integral Energy Australia (each of which is a **relevant provider** for the purposes of this clause).
- (b) For the purposes of the regulatory control period 2009-2014:
  - (1) each part of a relevant provider's *network* that would, but for this clause, be part of the provider's *transmission network* is deemed to be part of the provider's *distribution network* for the purposes of this Chapter 6 and Chapter 6A; and
  - (2) despite anything in those Chapters, those Chapters have effect accordingly.
- (c) This clause 6.1.5 does not affect the operation of the *Rules*, apart from:
  - (1) this Chapter 6 and Chapter 6A; and
  - (2) the definitions of *distribution network* and *transmission network* in Chapter 10 in relation to this Chapter 6 and Chapter 6A.
- (d) However, the relevant providers are not required to submit revenue proposals under clause 6A.10.1.

**6.1.6 Application of this Chapter to the EnergyAustralia transmission support network**

- (a) This clause 6.1.6 applies to EnergyAustralia.
- (b) For the purposes of the regulatory control period 2009-2014:
  - (1) the EnergyAustralia transmission support network is deemed to be part of EnergyAustralia's *distribution network* for the purposes of this Chapter and Chapter 6A; and
  - (2) despite anything in those Chapters, those Chapters have effect accordingly.
- (c) A service that is provided by EnergyAustralia by means of, or in connection with, the EnergyAustralia transmission support network and that, but for this clause, would be a *prescribed transmission service* is:
  - (1) deemed to be classified as a *direct control service* and further classified as a *standard control service*; and
  - (2) referred to in this Chapter as an **EnergyAustralia prescribed (transmission) standard control service**.

- (d) A service that is provided by EnergyAustralia by means of, or in connection with, the EnergyAustralia transmission support network and that, but for this clause, would be a *negotiated transmission service* is:
  - (1) deemed to be classified as a *negotiated distribution service*;
  - (2) referred to in the Rules as an **EnergyAustralia negotiated distribution service**.
- (e) Part J of Chapter 6A applies to EnergyAustralia prescribed (transmission) standard control services to the exclusion of Parts I, J and K, and so applies as if:
  - (1) references in Part J of Chapter 6A to a *prescribed transmission service* were references to Energy Australia prescribed (transmission) standard control services; and
  - (2) the reference in clause 6A.22.1 to clause 6A.3.2 were a reference to rules 6.6 and 6.13;and with any other necessary modifications.
- (f) This clause 6.1.6 does not affect the operation of the *Rules*, apart from:
  - (1) this Chapter 6 and Chapter 6A; and
  - (2) the definitions of *distribution network* and *transmission network* in Chapter 10 in relation to this Chapter 6 and Chapter 6A.

### 6.1.7 Definitions

- (a) In this Chapter (including Schedules 6.1 and 6.2):

**ActewAGL** means the joint venture between ACTEW Distribution Limited ACN 073 025 224 and Alinta GCA Pty Ltd ACN 008 552 663 providing *distribution services* in the Australian Capital Territory, or any successor or successors of that joint venture.

**applicable jurisdictional scheme** means a *jurisdictional scheme* other than the *jurisdictional scheme* established under the Energy and Utilities Administration Amendment (Climate Change Fund) Act 2007 (NSW).

**Climate Change Fund payments** means the amount paid, or required by an order under the Energy and Utilities Administration Act 1987 of New South Wales to be paid, by a NSW Distribution Network Service Provider to the Climate Change Fund.

**commencement date** means the date of commencement of transitional Chapter 6.

**Cost Allocation Method** means:

- (a) for NSW Distribution Network Service Providers – the Cost Allocation Method approved under clause 6.15.6 as in force from time to time; or
- (b) for the ACT Distribution Network Service Provider – the Cost Allocation Method approved under clause 6.15.8 as in force from time to time.

**Country Energy** means the energy services corporation of that name, which is constituted under section 7 of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 2 of Schedule 1 to that Act, or any successor or successors of that corporation.

**EnergyAustralia** means the energy services corporation of that name, which is constituted under section 7 of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 2 of Schedule 1 to that Act, or any successor or successors of that corporation.

**EnergyAustralia negotiated distribution service** – see clause 6.1.6(d).

**EnergyAustralia prescribed (transmission) standard control service** – see clause 6.1.6(c).

**EnergyAustralia transmission support network** means any part of a network owned, controlled or operated by EnergyAustralia and operating between 66 kV and 220 kV that operates in parallel to and provides support to the higher voltage *transmission network*.

**general Chapter 6** means Chapter 6 as in force apart from rule 11.15.

**ICRC** means the Independent Competition and Regulatory Commission of the Australian Capital Territory, which is established under section 5(1) of the *Independent Competition and Regulatory Commission Act 1997* (ACT).

**Integral Energy Australia** means the energy services corporation of that name, which is constituted under section 7 of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 2 of Schedule 1 to that Act, or any successor or successors of that corporation.

**IPART** means the Independent Pricing and Regulatory Tribunal of New South Wales, which is established under section 5(1) of the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW).

**modified clause 6.18.2(b)(6A) and (6B)** means clause 6.18.2(b)(6A) and (6B) of general Chapter 6 but as if clause 6.18.2(b)(6A) of general Chapter 6 was amended by inserting “in any previous regulatory year” before “; and”.

**modified clauses 6.18.7A(a) to (c)** means clauses 6.18.7A(a) to (c) of general Chapter 6 but as if:

- (a) the reference to “in accordance with paragraph (c)” in clause 6.18.7A(b) of general Chapter 6 was a reference to “any previous *regulatory year*”;
- (b) clause 6.18.7A(c) of general Chapter 6 was replaced with the following clause 6.18.7A(c):

"The extent of the over or under recovery is the difference between:

- (1) the actual amount of the *Distribution Network Service Provider's jurisdictional scheme amounts* in any previous *regulatory year*; and
- (2) the amount passed on to customers in respect of *jurisdictional scheme amounts* by the *Distribution Network Service Provider* in a previous *regulatory year*.

**regulatory control period 2004-2009** means the regulatory control period of 5 years commencing on 1 July 2004.

**regulatory control period 2009-2014** means the regulatory control period of 5 years commencing on 1 July 2009 and referred to in rule 11.15.

**transitional Chapter 6** means this Chapter (being transitional Chapter 6 as defined in rule 11.15).

- (b) In this Chapter and in rule 11.15:
  - (1) a reference to the NSW Distribution Network Service Providers is a reference to Country Energy, EnergyAustralia and Integral Energy Australia; and
  - (2) a reference to the ACT Distribution Network Service Provider is a reference to ActewAGL.

## Part B Classification of Distribution Services and Distribution Determinations

### 6.2 Classification

6.2.1 \*\*\*\*\*

6.2.2 \*\*\*\*\*

6.2.3 \*\*\*\*\*

#### 6.2.3A Classes and subclasses of distribution services

- (a) *Distribution services* to be provided by a *Distribution Network Service Provider* are divided into the following 3 classes:

- (1) *direct control services*;
- (2) *negotiated distribution services*;
- (3) *unregulated distribution services*.

**Note:**

Certain services provided by means of, or in connection with, the EnergyAustralia transmission support network (which is deemed by clause 6.1.6(b) to be part of EnergyAustralia's distribution network) are deemed by clause 6.1.6(d) to be classified as *negotiated distribution services* for certain purposes.

- (b) *Direct control services* are further divided into the following 2 subclasses:
  - (1) *standard control services*; and
  - (2) *alternative control services*.

### **6.2.3B Classification for NSW Distribution Network Service Providers**

- (a) A *distribution service* that is provided by a NSW Distribution Network Service Provider and that was determined by the IPART to be a prescribed distribution service (for the purposes of the regulatory control period 2004-2009) is deemed (for the purposes of the regulatory control period 2009-2014) to be classified as a *direct control service* and further classified as a *standard control service*.

**Note:**

The IPART's Final Determination No 2, 2004 (relating to NSW Electricity Distribution Pricing 2004/05 to 2008/09) provided that prescribed distribution services include:

- Distribution Use of System Services
  - Private Power Line Inspections and Customer Installation Inspections
  - certain Monopoly Services
  - certain Miscellaneous Services
  - certain Emergency Recoverable Works.
- (b) A *distribution service* that is provided by a NSW Distribution Network Service Provider and that was determined by the IPART to be an excluded distribution service (for the purposes of the regulatory control period 2004-2009) is deemed (for the purposes of the regulatory control period 2009-2014):
    - (1) in the case of the excluded distribution service of the construction and maintenance of public lighting infrastructure – to be classified as a *direct control service* and further classified as an *alternative control service*;

- (2) in the case of any other excluded distribution service – to be classified as:
- (i) an unregulated *distribution service*, unless the *AER* has made a determination under paragraph (e) in relation to that *distribution service*; or
  - (ii) an *alternative control service*, if the *AER* has made a determination under paragraph (e) in relation to that *distribution service*.

**Note:**

1. Other distribution services provided by a NSW Distribution Network Service Provider are unclassified and not regulated under the Rules.
  2. The IPART's Final Determination No 2, 2004 (relating to NSW Electricity Distribution Pricing 2004/2005 to 2008/2009) determined that the following Distribution Services are Excluded Distribution Services):
    - the construction and maintenance of Public Lighting Infrastructure
    - Customer Funded Connections
    - Customer Specific Services
    - Type 1 to 4 Metering Services.
- (c) A NSW Distribution Network Service Provider is, in relation to a *distribution service* classified as an unregulated *distribution service*, required to comply substantially with the relevant requirements of the provisions of Rule 2004/1 (Regulation of Excluded Distribution Services) made by the IPART in relation to the regulatory control period 2004-2009.

**Note:**

*Distribution services* provided by a NSW Distribution Network Service Provider that are unclassified are not regulated under the *Rules*, and accordingly are not required to comply with the requirements of Rule 2004/1.

- (d) For the purposes of paragraph (c), the provisions of Rule 2004/1 have effect as if references to the IPART were references to the *AER* and references to the regulatory control period 2004-2009 were references to the regulatory control period 2009-2014, and with any other necessary modifications.
- (e) The *AER* may, at any time during the regulatory control period 2009-2014, determine that a NSW Distribution Network Service Provider is not or has ceased to be in substantial compliance with the requirements of the provisions referred to in paragraph (c) if the *AER* has:
- (1) given the provider a written notice inviting the provider to show cause within a specified period of at least 2 weeks why the *AER* should not make the determination and setting out the grounds on which the *AER* would make the determination; and

- (2) taken into consideration any written submissions made by the provider to the *AER* within that period in response to the notice.
- (f) Once a *distribution service* has been classified as an *alternative control service* because of a determination by the *AER* under paragraph (e), the *distribution service* cannot during the remainder of the regulatory control period 2009-2014 be classified again as an unregulated *distribution service*, unless it appears to the *AER* that the determination is affected by a material error or deficiency of a kind referred to in rule 6.13(a).
- (g) Provisions having effect as referred to in paragraph (c) may be included in a distribution determination in any appropriate format.
- (h) Once a *distribution service* has been classified as an *alternative control service* because of a determination by the *AER* under paragraph (e), the *AER* must make such amendments to the relevant distribution determination as are necessary to regulate the *distribution service* as an *alternative control service*.
- (i) When making the distribution determination for a NSW Distribution Network Service Provider, the *AER* may, with the agreement of the provider, vary the deemed classification effected by this clause 6.2.3B of a *distribution service* provided by the provider.
- (j) A deemed or varied classification under this clause 6.2.3B forms part of a distribution determination and operates for the regulatory control period 2009-2014.

### **6.2.3C Classification for ACT Distribution Network Service Provider**

- (a) A *distribution service* that is provided by the ACT Distribution Network Service Provider and that was determined by the ICRC to be a prescribed distribution service (for the purposes of the regulatory control period 2004-2009) is deemed (for the purposes of the regulatory control period 2009-2014) to be classified as a *direct control service* and further classified as a *standard control service*.
- (b) A *distribution service* that is provided by the ACT Distribution Network Service Provider and that was determined by the ICRC to be an excluded distribution service (for the purposes of the regulatory control period 2004-2009) is deemed (for the purposes of the regulatory control period 2009-2014) to be classified as a *direct control service* and further classified as an *alternative control service*.
- (c) When making the distribution determination for the ACT Distribution Network Service Provider, the *AER* may, with the agreement of the provider, vary the deemed classification effected by this clause 6.2.3C of a *distribution service* provided by the provider.

- (d) A deemed or varied classification under this clause 6.2.3C forms part of a distribution determination and operates for the regulatory control period 2009-2014.

**Note:**

The ICRC's Final Decision-Investigation into prices for electricity distribution services in the ACT-Report No 6 of 2004 (relating to ACT Electricity Distribution Pricing 2004/2005 to 2008/2009) provided that prescribed distribution services include all *distribution services* provided by ActewAGL, with the exception of the provision of and servicing of meters for customers consuming fewer than 160 megawatt hours per annum, including:

- meter testing
- meter reading
- meter checking
- the processing of metering data
- the provision of non-standard meters.

The services covered by the exception are accordingly Excluded Distribution Services.

#### **6.2.4 Duty of AER to make distribution determinations**

- (a) The *AER* must make a distribution determination for each *Distribution Network Service Provider*.
- (b) When the *AER* makes a distribution determination it must follow the process set out in Part E.
- (c) \*\*\*\*\*
- (d) \*\*\*\*\*

#### **6.2.5 Control mechanisms for direct control services**

- (a) A distribution determination is to impose controls over the prices of *direct control services*, the revenue to be derived from *direct control services* or both.
- (b) \*\*\*\*\*
- (c) \*\*\*\*\*
- (c1) The control mechanism for:
- (1) subject to subparagraph (3), *standard control services* provided by a NSW Distribution Network Service Provider in the regulatory control period 2009-2014:
    - (i) must be substantially the same as that determined by the IPART for the corresponding prescribed distribution services provided in the regulatory control period 2004-2009; and



- (ii) may, with the agreement of the provider, apply differently for different categories of services; and
  - (2) *standard control services* provided by the ACT Distribution Network Service Provider in the regulatory control period 2009-2014 must be substantially the same as that determined by the ICRC for prescribed distribution services provided in the regulatory control period 2004-2009; and
  - (3) EnergyAustralia prescribed (transmission) standard control services provided in the regulatory control period 2009-2014 and referred to in clause 6.1.6(c) must be substantially the same as that determined by the ACCC for the corresponding *prescribed transmission services* provided in the regulatory control period 2004-2009.
- (c2) The control mechanism for *alternative control services* may consist of:
- (1) a schedule of fixed prices;
  - (2) caps on the prices of individual services;
  - (3) caps on the revenue to be derived from a particular combination of services;
  - (4) tariff basket price control;
  - (5) revenue yield control;
  - (6) a combination of any of the above.
- (d) In deciding on a control mechanism for *alternative control services*, the *AER* must have regard to:
- (1) the potential for development of competition in the relevant market and how the control mechanism might influence that potential; and
  - (2) the possible effects of the control mechanism on administrative costs of the *AER*, the *Distribution Network Service Provider* and users or potential users; and
  - (3) the regulatory arrangements (if any) applicable to the relevant service immediately before the commencement of the distribution determination; and
  - (4) the desirability of consistency between regulatory arrangements for similar services (both within and beyond the relevant jurisdiction); and
  - (5) any other relevant factor.
- (e) The *AER* must, before 1 March 2008 or the date that is one month after the commencement date (whichever is the later), *publish* a statement indicating

its likely approach to the control mechanisms for *alternative control services*. In preparing the statement, the AER may carry out such consultation as the AER thinks appropriate and may take into consideration any consultation carried out before the commencement date.

#### **6.2.6 Basis of control mechanisms for direct control services**

- (a) For *standard control services*, the control mechanism must be of the prospective CPI minus X form, or some incentive-based variant of the prospective CPI minus X form, in accordance with Part C.
- (b) For *alternative control services*, the control mechanism must have a basis stated in the distribution determination.
- (c) The control mechanism for *alternative control services* may (but need not) utilise elements of Part C (with or without modification).

##### **Examples:**

The control mechanism might be based on the building block approach.

The distribution determination might provide for the application of clause 6.6.1 to pass through events with necessary adaptations and specified modifications.

#### **6.2.7 EnergyAustralia negotiated distribution services**

*Negotiated distribution services* provided by EnergyAustralia are regulated in accordance with Part D.

#### **6.2.7A Negotiable components of direct control services (NSW and ACT)**

Despite anything in this Division 2, the control mechanism for *direct control services* may include elements referred to as negotiable components of *direct control services*, as provided in Part DA.

#### **6.2.8 Guidelines**

- (a) The AER may *publish* guidelines as to:
  - (1) \*\*\*\*\*
  - (2) the control mechanisms for *direct control services*; and
  - (3) the calculation of stand-alone, avoidable and long-run marginal costs; and
  - (4) the AER's likely approach to determining materiality in the context of possible *pass through events*; and
  - (4A) the transition from pre-tax to post-tax revenue regulation; and
  - (5) other matters relevant to this Chapter.

- (b) The guidelines may relate to a specified *Distribution Network Service Provider* or *Distribution Network Service Providers* of a specified class.
- (c) The guidelines are not mandatory (and hence do not bind the *AER* or anyone else) but, if the *AER* makes a distribution determination that is not in accordance with a relevant guideline, the *AER* must state, in its reasons for the distribution determination, the reasons for departing from the guideline.
- (d) If the guidelines indicate that there may be a change of regulatory approach in future distribution determinations, the guidelines should also (if practicable) indicate how transitional issues are to be dealt with.
- (e) \*\*\*\*\*
- (f) In making or amending a guideline, the *AER* may carry out such consultation as the *AER* thinks appropriate and may take into consideration any consultation carried out before the commencement date.

## **Part C Building Block Determinations for standard control services**

### **6.3 Building block determinations**

#### **6.3.1 Introduction**

- (a) A *building block determination* is a component of a distribution determination.
- (b) The procedure for making a *building block determination* is contained in Part E of this Chapter and involves the submission of a *building block proposal* to the *AER* by the *Distribution Network Service Provider*.
- (c) The *building block proposal*:
  - (1) must be prepared in accordance with the *post-tax revenue model*, other relevant requirements of this Part, and Schedule 6.1; and
  - (2) must comply with the requirements of, and must contain or be accompanied by the information required by, any relevant *regulatory information instrument*.

#### **6.3.2 Contents of building block determination**

- (a) A *building block determination* for a *Distribution Network Service Provider* is to specify, for a *regulatory control period*, the following matters:
  - (1) the *Distribution Network Service Provider's* annual revenue requirement for each regulatory year of the regulatory control period;
  - (2) appropriate methods for the indexation of the regulatory asset base;

- (3) how any applicable *efficiency benefit sharing scheme*, *service target performance incentive scheme*, or *demand management incentive scheme* are to apply to the *Distribution Network Service Provider*;
- (4) the commencement and length of the *regulatory control period*;
- (5) any other amounts, values or inputs on which the *building block determination* is based (differentiating between those contained in, or inferred from, the service provider's *building block proposal* and those based on the *AER's* own estimates or assumptions).

(b) \*\*\*\*\*

## **6.4 Post-tax revenue model**

### **6.4.1 Preparation, publication and amendment of post-tax revenue model**

- (a) The *AER* must prepare and *publish* a *post-tax revenue model*.
- (b) \*\*\*\*\*
- (c) \*\*\*\*\*
- (d) The *AER* must *publish* the first *post-tax revenue model* before 1 February 2008 or the date that is one month after the commencement date (whichever is the later), and may carry out such consultation in connection with the preparation of the model as the *AER* thinks appropriate and may take into consideration any consultation carried out before the commencement date.
- (e) The *AER* may, from time to time and with the agreement of each affected *Distribution Network Service Provider*, amend or replace the *post-tax revenue model*.

### **6.4.2 Contents of post-tax revenue model**

- (a) The *post-tax revenue model* must set out the manner in which the *Distribution Network Service Provider's annual revenue requirement* for each *regulatory year* of a *regulatory control period* is to be calculated.
- (b) The contents of the *post-tax revenue model* must include (but are not limited to):
  - (1) a method that the *AER* determines is likely to result in the best estimates of expected inflation; and
  - (2) the timing assumptions and associated discount rates that are to apply in relation to the calculation of the building blocks referred to in clause 6.4.3; and
  - (3) the manner in which working capital is to be treated; and

- (4) the manner in which the estimated cost of corporate income tax is to be calculated.

### 6.4.3 Building block approach

#### (a) Building blocks generally

The *annual revenue requirement* for a *Distribution Network Service Provider* for each *regulatory year* of a *regulatory control period* must be determined using a building block approach, under which the building blocks are:

- (1) indexation of the regulatory asset base – see paragraph (b)(1); and
- (2) a return on capital for that year – see paragraph (b)(2); and
- (3) the depreciation for that year – see paragraph (b)(3); and
- (4) the estimated cost of corporate income tax of the provider for that year – see paragraph (b)(4); and
- (5) the revenue increments or decrements (if any) for that year arising from the application of the *service target performance incentive scheme* and the *demand management incentive scheme* – see paragraph (b)(5); and
- (6) the other revenue increments or decrements (if any) for that year arising from the application of a control mechanism in the previous *regulatory control period* – see paragraph (b)(6); and
- (7) the forecast operating expenditure for that year – see paragraph (b)(7); and
- (8) certain revenue increments or decrements for that year arising from the D-factor carry forward – see paragraph (b)(8).

#### (b) Details of the building blocks

For the purposes of paragraph (a):

- (1) for indexation of the regulatory asset base:
  - (i) the regulatory asset base is calculated in accordance with clause 6.5.1 and schedule 6.2; and
  - (ii) the building block comprises a negative adjustment equal to the amount referred to in clause S6.2.3(c)(4) for that year; and
- (2) the return on capital is calculated in accordance with clause 6.5.2; and
- (3) the depreciation is calculated in accordance with clause 6.5.5; and

- (4) the estimated cost of corporate income tax is determined in accordance with clause 6.5.3; and
  - (5) the revenue increments or decrements referred to in paragraph (a)(5) are those that arise as a result of the operation of an applicable *service target performance incentive scheme* or *demand management incentive scheme* as referred to in clauses 6.6.2 and 6.6.3; and
  - (6) the other revenue increments or decrements referred to in paragraph (a)(6) are those that are to be carried forward to the current *regulatory control period* as a result of the application of a control mechanism in the previous *regulatory control period* and are apportioned to the relevant year under the distribution determination for the current *regulatory control period*; and
  - (7) the forecast operating expenditure for the year is the forecast operating expenditure as accepted or substituted by the *AER* in accordance with clause 6.5.6; and
  - (8) the revenue increments or decrements are those that arise as a result of the operation of the arrangements in clause 11 of the IPART's Final Determination No 2, 2004 (relating to NSW Electricity Distribution Pricing 2004/05 to 2008/09) for expenditure or foregone revenue in each of the last 2 *regulatory years* of the regulatory control period 2004-2009.
- (c) The arrangements referred to in paragraph (b)(8) have effect in relation to expenditure or foregone revenue in each of the last 2 *regulatory years* of the regulatory control period 2004-2009:
- (1) as if references to the IPART were references to the *AER* and references to the regulatory control period 2004-2009 were references to the regulatory control period 2009-2014; and
  - (2) with any other necessary modifications.

## **6.5 Matters relevant to the making of building block determinations**

### **6.5.1 Regulatory asset base**

#### **Nature of regulatory asset base**

- (a) The regulatory asset base for a *distribution system* owned, controlled or operated by a *Distribution Network Service Provider* is the value of those assets that are used by the provider to provide *standard control services*, but only to the extent that they are used to provide such services.

**Preparation, publication and amendment of model for rolling forward regulatory asset base**

- (b) The *AER* must develop and *publish* a model for the roll forward of the regulatory asset base for *distribution systems*, referred to as the *roll forward model*.
- (c) The *AER* may, from time to time and with the agreement of each affected *Distribution Network Service Provider*, amend or replace the *roll forward model*.
- (d) The *AER* must develop and *publish* the first *roll forward model*, before 1 February 2008 or the date that is one month after the commencement date (whichever is the later), and may carry out such consultation in connection with the preparation of the model as the *AER* thinks appropriate and may take into consideration any consultation carried out before the commencement date. There must be such a model available at all times after that date.

**Contents of roll forward model**

- (e) The *roll forward model* must set out the method for determining the roll forward of the regulatory asset base for *distribution systems*:
  - (1) from the immediately preceding *regulatory control period* to the beginning of the first year of the subsequent *regulatory control period*, so as to establish the value of the regulatory asset base as at the beginning of the first *regulatory year* of that subsequent *regulatory control period*; and
  - (2) from one *regulatory year* in a *regulatory control period* to a subsequent *regulatory year* in that same *regulatory control period*, so as to establish the value of the regulatory asset base as at the beginning of that subsequent *regulatory year*;

under which:

- (3) the roll forward of the regulatory asset base from the immediately preceding *regulatory control period* to the beginning of the first *regulatory year* of a subsequent *regulatory control period* entails the value of the first mentioned regulatory asset base being adjusted for actual inflation, consistently with the method used for the indexation of the control mechanism (or control mechanisms) for *standard control services* during the preceding *regulatory control period*.

**Other provisions relating to regulatory asset base**

- (f) Other provisions relating to regulatory asset bases are set out in schedule 6.2.
- (g) For the purpose of establishing the value of the regulatory asset base (as referred to in paragraph (e)(1)) as at the beginning of the first *regulatory year* of the regulatory control period 2009-2014 for the ACT Distribution

Network Service Provider, and despite clause S6.2.1(e), the *roll forward model* must apply the approach adopted by the ICRC in the distribution determination for the regulatory control period 2004-2009, but taking into account any written representations by the ICRC to the ACT Distribution Network Service Provider before the commencement date.

- (h) For the purpose of establishing the value of the regulatory asset base (as referred to in paragraph (e)(1)) as at the beginning of the first *regulatory year* of the regulatory control period 2009-2014 for EnergyAustralia, the *roll forward model* in respect of transmission network support assets must be applied as if the *AER* were separately regulating EnergyAustralia's transmission system under the relevant provisions of Chapter 6A.

## 6.5.2 Return on capital

### Calculation of return on capital

- (a) The return on capital for each *regulatory year* must be calculated by applying a rate of return for the relevant *Distribution Network Service Provider* for that *regulatory control period* (calculated in accordance with this clause 6.5.2) to the value of the regulatory asset base for the relevant *distribution system* as at the beginning of that *regulatory year* (as established in accordance with clause 6.5.1 and schedule 6.2).

### Weighted average cost of capital

- (b) The rate of return for a *Distribution Network Service Provider* for a *regulatory control period* is the cost of capital as measured by the return required by investors in a commercial enterprise with a similar nature and degree of non-diversifiable risk as that faced by the *distribution* business of the provider and must be calculated as a nominal post-tax *weighted average cost of capital (WACC)* in accordance with the following formula:

$$WACC = k_e \frac{E}{V} + k_d \frac{D}{V}$$

where:

$k_e$  is the return on equity (determined using the Capital Asset Pricing Model) and is calculated as:

$$r_f + \beta_e \times \text{MRP}$$

where:

$r_f$  is the nominal risk free rate for the *regulatory control period* determined in accordance with paragraph (c);

$\beta_e$  (the equity beta) is deemed to be 1.0; and

MRP (the market risk premium) is deemed to be 6.0%;



$k_d$  is the return on debt and is calculated as:

$$r_f + \text{DRP}$$

where:

DRP is the debt risk premium for the *regulatory control period* determined in accordance with paragraph (e);

$E/V$  is the value of equity as a proportion of the value of equity and debt, which is  $1 - D/V$ ; and

$D/V$  (the value of debt as a proportion of the value of equity and debt) is deemed to be 0.6.

### Meaning of nominal risk free rate

- (c) The nominal risk free rate for a *regulatory control period* is the rate determined for that *regulatory control period* by the AER on a moving average basis from the annualised yield on Commonwealth Government bonds with a maturity of 10 years using:
- (1) the indicative mid rates published by the Reserve Bank of Australia; and
  - (2) a period of time which is either:
    - (i) a period (the **agreed period**) proposed by the relevant *Distribution Network Service Provider*, and agreed by the AER (such agreement is not to be unreasonably withheld); or
    - (ii) a period specified by the AER, and notified to the provider within a reasonable time prior to the commencement of that period, if the period proposed by the provider is not agreed by the AER under subparagraph (i),and, for the purposes of subparagraph (i):
    - (iii) the start date and end date for the agreed period may be kept confidential, but only until the expiration of the agreed period; and
    - (iv) the AER must notify the *Distribution Network Service Provider* whether or not it agrees with the proposed period within 30 *business days* of the date of submission of the *building block proposal*.
- (d) If there are no Commonwealth Government bonds with a maturity of 10 years on any day in the period referred to in paragraph (c)(2), the AER must determine the nominal risk free rate for the *regulatory control period* by interpolating on a straight line basis from the two Commonwealth

Government bonds closest to the 10 year term and which also straddle the 10 year expiry date.

#### Meaning of debt risk premium

- (e) The debt risk premium for a *regulatory control period* is the premium determined for that *regulatory control period* by the AER as the margin between the 10 year Commonwealth annualised bond rate and the observed annualised Australian benchmark corporate bond rate for corporate bonds which have a maturity of 10 years and a credit rating of BBB+ from Standard and Poors.

### 6.5.3 Estimated cost of corporate income tax

The estimated cost of corporate income tax of a *Distribution Network Service Provider* for each *regulatory year* (ETC<sub>t</sub>) must be calculated in accordance with the following formula:

$$ETC_t = (ETI_t \times r_t) (1 - \gamma)$$

where:

ETI<sub>t</sub> is an estimate of the taxable income for that *regulatory year* that would be earned by a benchmark efficient entity as a result of the provision of *standard control services* if such an entity, rather than the *Distribution Network Service Provider*, operated the business of the *Distribution Network Service Provider*, such estimate being determined in accordance with the *post-tax revenue model*;

r<sub>t</sub> is the expected statutory income tax rate for that *regulatory year* as determined by the AER; and

γ (the assumed utilisation of imputation credits) is deemed to be 0.5.

For these purposes:

- (1) the cost of debt must be based on that of a benchmark efficient *Distribution Network Service Provider*; and
- (2) the estimate must take into account the estimated depreciation for that *regulatory year* for *tax purposes*, for a benchmark efficient *Distribution Network Service Provider*, of assets where the value of those assets is included in the regulatory asset base for the relevant *distribution system* for that *regulatory year*.

### 6.5.4 \*\*\*\*\*

### 6.5.5 Depreciation

- (a) The depreciation for each *regulatory year*:

- (1) must be calculated on the value of the assets as included in the regulatory asset base, as at the beginning of that *regulatory year*, for the relevant *distribution system*; and
- (2) must be calculated:
  - (i) providing such depreciation schedules conform with the requirements set out in paragraph (b), using the depreciation schedules for each asset or category of assets that are nominated in the relevant *Distribution Network Service Provider's building block proposal*; or
  - (ii) to the extent the depreciation schedules nominated in the provider's *building block proposal* do not so conform, using the depreciation schedules determined for that purpose by the *AER*.
- (b) The depreciation schedules referred to in paragraph (a) must conform to the following requirements:
  - (1) the schedules must depreciate using a profile that reflects the nature of the assets or category of assets over the economic life of that asset or category of assets;
  - (2) the sum of the real value of the depreciation that is attributable to any asset or category of assets over the economic life of that asset or category of assets (such real value being calculated as at the time the value of that asset or category of assets was first included in the regulatory asset base for the relevant *distribution system*) must be equivalent to the value at which that asset or category of assets was first included in the regulatory asset base for the relevant *distribution system*;
  - (3) the economic life of the relevant assets and the depreciation methods and rates underpinning the calculation of depreciation for a given *regulatory control period* must be consistent with those determined for the same assets on a prospective basis in the distribution determination for that period.

#### **6.5.6 Forecast operating expenditure**

- (a) A *building block proposal* must include the total forecast operating expenditure for the relevant *regulatory control period* which the *Distribution Network Service Provider* considers is required in order to achieve each of the following (the *operating expenditure objectives*):
  - (1) meet or manage the expected demand for *standard control services* over that period;
  - (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *standard control services*;

- (3) maintain the quality, reliability and security of supply of *standard control services*;
  - (4) maintain the reliability, safety and security of the *distribution system* through the supply of *standard control services*.
- (b) The forecast of required operating expenditure of a *Distribution Network Service Provider* that is included in a *building block proposal* must:
  - (1) comply with the requirements of any relevant *regulatory information instrument*; and
  - (2) be for expenditure that is properly allocated to *standard control services* in accordance with the principles and policies set out in the Cost Allocation Method for the *Distribution Network Service Provider*; and
  - (3) include both:
    - (i) the total of the forecast operating expenditure for the relevant *regulatory control period*; and
    - (ii) the forecast of the operating expenditure for each *regulatory year* of the relevant *regulatory control period*.
- (c) The *AER* must accept the forecast of required operating 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 operating expenditure for the *regulatory control period* reasonably reflects:
  - (1) the efficient costs of achieving the *operating expenditure objectives*; and
  - (2) the costs that a prudent operator in the circumstances of the relevant *Distribution Network Service Provider* would require to achieve the *operating expenditure objectives*; and
  - (3) a realistic expectation of the demand forecast and cost inputs required to achieve the *operating expenditure objectives*.

(the *operating expenditure criteria*).
- (d) If the *AER* is not satisfied as referred to in paragraph (c), it must not accept the forecast of required operating expenditure of a *Distribution Network Service Provider* that is included in a *building block proposal*.
- (e) In deciding whether or not the *AER* is satisfied as referred to in paragraph (c), the *AER* must have regard to the following (the *operating expenditure factors*):
  - (1) the information included in or accompanying the *building block proposal*;

- (2) submissions received in the course of consulting on the *building block proposal*;
- (3) analysis undertaken by or for the *AER* and *published* before the distribution determination is made in its final form;
- (4) benchmark operating expenditure that would be incurred by an efficient *Distribution Network Service Provider* over the *regulatory control period*;
- (5) the actual and expected operating expenditure of the *Distribution Network Service Provider* during any preceding *regulatory control periods*;
- (6) the relative prices of operating and capital inputs;
- (7) the substitution possibilities between operating and capital expenditure;
- (8) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the applicable *service target performance incentive scheme* in respect of the *regulatory control period*;
- (9) the extent the forecast of required operating expenditure of the *Distribution Network Service Provider* is referable to arrangements with a person other than the provider that, in the opinion of the *AER*, do not reflect arm's length terms;
- (10) the extent the *Distribution Network Service Provider* has considered, and made provision for, efficient non-network alternatives.

### 6.5.7 Forecast capital expenditure

- (a) A *building block proposal* must include the total forecast capital expenditure for the relevant *regulatory control period* which the *Distribution Network Service Provider* considers is required in order to achieve each of the following (the *capital expenditure objectives*):
  - (1) meet or manage the expected demand for *standard control services* over that period;
  - (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *standard control services*;
  - (3) maintain the quality, reliability and security of supply of *standard control services*;
  - (4) maintain the reliability, safety and security of the *distribution system* through the supply of *standard control services*.

- (b) The forecast of required capital expenditure of a *Distribution Network Service Provider* that is included in a *building block proposal* must:
  - (1) comply with the requirements of any relevant *regulatory information instrument*; and
  - (2) be for expenditure that is properly allocated to *standard control services* in accordance with the principles and policies set out in the Cost Allocation Method for the *Distribution Network Service Provider*; and
  - (3) include both:
    - (i) the total of the forecast capital expenditure for the relevant *regulatory control period*; and
    - (ii) the forecast of the capital expenditure for each *regulatory year* of the relevant *regulatory control period*; and
  - (4) identify any forecast capital expenditure that is for an option that has satisfied the *regulatory test*.
- (c) The *AER* must 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:
  - (1) the efficient costs of achieving the *capital expenditure objectives*; and
  - (2) the costs that a prudent operator in the circumstances of the relevant *Distribution Network Service Provider* would require to achieve the *capital expenditure objectives*; and
  - (3) a realistic expectation of the demand forecast and cost inputs required to achieve the *capital expenditure objectives*.

(the *capital expenditure criteria*)
- (d) If the *AER* is not satisfied as referred to in paragraph (c), it must not accept the forecast of required capital expenditure of a *Distribution Network Service Provider*.
- (e) In deciding whether or not the *AER* is satisfied as referred to in paragraph (c), the *AER* must have regard to the following (the *capital expenditure factors*):
  - (1) the information included in or accompanying the *building block proposal*;
  - (2) submissions received in the course of consulting on the *building block proposal*;

- (3) analysis undertaken by or for the *AER* and *published* before the distribution determination is made in its final form;
- (4) benchmark capital expenditure that would be incurred by an efficient *Distribution Network Service Provider* over the *regulatory control period*;
- (5) the actual and expected capital expenditure of the *Distribution Network Service Provider* during any preceding *regulatory control periods*;
- (6) the relative prices of operating and capital inputs;
- (7) the substitution possibilities between operating and capital expenditure;
- (8) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the applicable *service target performance incentive scheme* in respect of the *regulatory control period*;
- (9) the extent the forecast of required capital expenditure of the *Distribution Network Service Provider* is referable to arrangements with a person other than the provider that, in the opinion of the *AER*, do not reflect arm's length terms;
- (10) the extent the *Distribution Network Service Provider* has considered, and made provision for, efficient non-network alternatives.

#### **6.5.8 Efficiency benefit sharing scheme**

- (a) The *AER* may develop and *publish* a scheme or schemes (*efficiency benefit sharing scheme*) that provide for a fair sharing between NSW and ACT *Distribution Network Service Providers* and *Distribution Network Users* of:
  - (1) the efficiency gains derived from the operating expenditure of *Distribution Network Service Providers* for a *regulatory control period* being less than; and
  - (2) the efficiency losses derived from the operating expenditure of *Distribution Network Service Providers* for a *regulatory control period* being more than,the forecast operating expenditure accepted or substituted by the *AER* for that *regulatory control period*.
- (b) An *efficiency benefit sharing scheme* may (but is not required to) be developed to cover efficiency gains and losses related to capital expenditure or *distribution losses*.

- (c) In developing and implementing an *efficiency benefit sharing scheme*, the AER must have regard to:
  - (1) the need to ensure that benefits to consumers likely to result from the scheme are sufficient to warrant any reward or penalty under the scheme for *Distribution Network Service Providers*; and
  - (2) the need to provide *Distribution Network Service Providers* with a continuous incentive, so far as is consistent with economic efficiency, to reduce operating expenditure and, if the scheme extends to capital expenditure, capital expenditure; and
  - (3) the desirability of both rewarding *Distribution Network Service Providers* for efficiency gains and penalising *Distribution Network Service Providers* for efficiency losses; and
  - (4) any incentives that *Distribution Network Service Providers* may have to capitalise expenditure; and
  - (5) the possible effects of the scheme on incentives for the implementation of non-network alternatives.
- (d) The AER may, from time to time and with the agreement of each affected *Distribution Network Service Provider*, amend or replace an *efficiency benefit sharing scheme*.
- (e) The AER must *publish* a written statement, when it *publishes* its first *efficiency benefit sharing scheme* (if any), setting out how it proposes the *efficiency benefit sharing scheme* will operate for the next distribution determination. The statement may be included in the first *efficiency benefit sharing scheme* or may be *published* separately.
- (f) However, despite *publishing* an *efficiency benefit sharing scheme*, the AER need not apply the scheme to one or more *Distribution Network Service Providers* in the relevant distribution determination or determinations.
- (g) The AER may carry out such consultation in connection with the preparation of an *efficiency benefit sharing scheme* as the AER thinks appropriate and may take into consideration any consultation carried out before the commencement date.
- (h) If an *efficiency benefit sharing scheme* applicable to a NSW or ACT Distribution Network Service Provider is not *published* before 1 March 2008 or the date that is one month after the commencement date (whichever is the later), no *efficiency benefit sharing scheme* may be applied to the *Distribution Network Service Provider* in its distribution determination for the regulatory control period 2009-2014.
- (i) The AER may monitor and collect information from any or all of the NSW and ACT Distribution Network Service Providers on matters relevant to be included in an *efficiency benefit sharing scheme* for the purpose of



developing, amending or applying an *efficiency benefit sharing scheme* for the regulatory control period commencing on 1 July 2014.

### 6.5.9 The X factor

- (a) A *building block determination* is to include the X factor for each control mechanism for each *regulatory year* of the *regulatory control period*.
- (b) The X factor:
  - (1) must be set by the AER with regard to the *Distribution Network Service Provider's total revenue requirement* for the *regulatory control period*; and
  - (2) must be such as to minimise, as far as reasonably possible, variance between expected revenue for the last *regulatory year* of the *regulatory control period* and the *annual revenue requirement* for that last *regulatory year*; and
  - (3) must conform with whichever of the following requirements is applicable:
    - (i) if the control mechanism relates generally to *standard control services* – the X factor must be designed to equalise (in terms of net present value) the revenue to be earned by the *Distribution Network Service Provider* from the provision of *standard control services* over the *regulatory control period* with the provider's *total revenue requirement* for the *regulatory control period*;
    - (ii) if there are separate control mechanisms for different *standard control services* – the X factor for each control mechanism must be designed to equalise (in terms of net present value) the revenue to be earned by the *Distribution Network Service Provider* from the provision of *standard control services* to which the control mechanism relates over the *regulatory control period* with the portion of the provider's *total revenue requirement* for the *regulatory control period* attributable to those services.
- (c) There may be different X factors:
  - (1) for different regulatory years of the regulatory control period; and
  - (2) if there are 2 or more control mechanisms – for each control mechanism.

## 6.6 Adjustments after making of building block determination

### 6.6.1 Cost pass through

- (a) If a *positive change event* occurs, a *Distribution Network Service Provider* may seek the approval of the *AER* to pass through to *Distribution Network Users* a *positive pass through amount*.
- (b) If a *negative change event* occurs, the *AER* may require the *Distribution Network Service Provider* to pass through to *Distribution Network Users* a *negative pass through amount* as determined by the *AER* under paragraph (g).

#### Positive pass through

- (c) To seek the approval of the *AER* to pass through a *positive pass through amount*, a *Distribution Network Service Provider* must submit to the *AER*, within 90 *business days* of the relevant *positive change event* occurring, a written statement which specifies:
  - (1) the details of the *positive change event*; and
  - (2) the date on which the *positive change event* occurred; and
  - (3) the *eligible pass through amount* in respect of that *positive change event*; and
  - (4) the *positive pass through amount* the provider proposes in relation to the *positive change event*; and
  - (5) the amount of the *positive pass through amount* that the provider proposes 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; and
  - (6) evidence:
    - (i) of the actual and likely increase in costs referred to in subparagraph (3); and
    - (ii) that such costs occur solely as a consequence of the *positive change event*; and
    - (iii) in relation to a *retailer insolvency event*, of :
      - (A) the amount to which the *Distribution Network Service Provider* is entitled under any relevant *credit support*; and
      - (B) the maximum amount of *credit support* (if any) that the *Distribution Network Service Provider* was entitled to request the *retailer* to provide under the *credit support rules*; and

- (C) any amount that the *Distribution Network Service Provider* is likely to receive on a winding-up of the *retailer*.
- (7) such other information as may be required under any relevant *regulatory information instrument*.
- (d) If the *AER* determines that a *positive change event* has occurred in respect of a statement under paragraph (c), the *AER* must determine:
  - (1) the *approved pass through amount*; and
  - (2) 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).
- (e) If the *AER* does not make the determinations referred to in paragraph (d) within 60 *business days* from the date it receives the *Distribution Network Service Provider's* statement and accompanying evidence under paragraph (c), then, on the expiry of that period, the *AER* is taken to have determined that:
  - (1) the *positive pass through amount* as proposed in the provider's statement under paragraph (c) is the *approved pass through amount* in respect of that *positive change event*; and
  - (2) 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,

**Negative pass through**

- (f) A *Distribution Network Service Provider* must submit to the *AER*, within 90 *business days* of becoming aware of the occurrence of a *negative change event* for the provider, a written statement which specifies:
  - (1) the details of the *negative change event* concerned; and
  - (2) the date the *negative change event* occurred; and
  - (3) the costs in the provision of *direct control services* that the provider has saved and is likely to save as a result of the *negative change event* until:
    - (i) unless subparagraph(ii) applies – the end of the *regulatory control period* in which the *negative change event* occurred; or
    - (ii) if the distribution determination for the *regulatory control period* following that in which the *negative change event*

occurred does not make any allowance for the pass through of those cost savings - the end of the *regulatory control period* following that in which the *negative change event* occurred; and

- (4) the aggregate amount of those saved costs that the provider proposes should be passed through to *Distribution Network Users*; and
  - (5) the amount of the costs referred to in subparagraph(4) the provider proposes should be passed through to *Distribution Network Users* in the *regulatory year* in which, and each *regulatory year* after that in which, the *negative change event* occurred; and
  - (6) such other information as may be required under any relevant *regulatory information instrument*.
- (g) If a *negative change event* occurs (whether or not the occurrence of that *negative change event* is notified by the provider to the AER under paragraph (f)) and the AER determines to impose a requirement on the provider in relation to that *negative change event* as described in paragraph (b), the AER must determine:
- (1) the *required pass through amount*; and
  - (2) taking into account the matters referred to in paragraph (j):
    - (i) how much of that *required pass through amount* should be passed through to *Distribution Network Users* (the *negative pass through amount*); and
    - (ii) the amount of that *negative 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 *negative change event* occurred.
- (h) A *Distribution Network Service Provider* must provide the AER with such information as the AER requires for the purpose of making a determination under paragraph (g) within the time specified by the AER in a notice provided to the provider by the AER for that purpose.

### Consultation

- (i) Before making a determination under paragraph (d) or (g), the AER may consult with the relevant *Distribution Network Service Provider* and such other persons as the AER considers appropriate, on any matters arising out of the relevant *pass through event* the AER considers appropriate.

### Relevant factors

- (j) In making a determination under paragraph (d) or (g) in respect of a *Distribution Network Service Provider*, the AER must take into account:

- (1) the matters and proposals set out in any statement given to the *AER* by the provider under paragraph (c) or (f); and
- (2) in the case of a *positive change event*, the increase in costs in the provision of *direct control services* that, as a result of the *positive change event*, the provider has incurred and is likely to incur until:
  - (i) unless subparagraph(ii) applies – the end of the *regulatory control period* in which the *positive change event* occurred; or
  - (ii) if the distribution determination for the *regulatory control period* following that in which the *positive change event* occurred does not make any allowance for the recovery of that increase in costs – the end of the *regulatory control period* following that in which the *positive change event* occurred; and
- 2A in the case of a *negative change event*, the costs in the provision of *direct control services* that, as a result of the *negative change event*, the provider has saved and is likely to save until:
  - (i) unless subparagraph(ii) applies – the end of the *regulatory control period* in which the *negative change event* occurred; or
  - (ii) if the distribution determination for the *regulatory control period* following that in which the *negative change event* occurred does not make any allowance for the pass through of those cost savings to *Distribution Network Users* – the end of the *regulatory control period* following that in which the *negative change event* occurred; and
- (3) in the case of a *positive change event*, the efficiency of the provider's decisions and actions in relation to the risk of the *positive change event*, including whether the provider has failed to take any action that could reasonably be taken to reduce the magnitude of the *eligible pass through amount* in respect of that *positive change event* and whether the provider has taken or omitted to take any action where such action or omission has increased the magnitude of the amount in respect of that *positive change event*; and
- (4) the time cost of money based on the *weighted average cost of capital* for the provider for the *regulatory control period* in which the *pass through event* occurred; and
- (5) the need to ensure that the provider only recovers any actual or likely increment in costs under this paragraph (j) to the extent that such increment is solely as a consequence of a *pass through event*; and
- (6) in the case of a *tax change event*, any change in the way another *tax* is calculated, or the removal or imposition of another *tax*, which, in the *AER's* opinion, is complementary to the *tax change event* concerned; and

- (7) whether the costs of the *pass through event* have already been factored into the calculation of the provider's *annual revenue requirement* for the *regulatory control period* in which the *pass through event* occurred or will be factored into the calculation of the provider's *annual revenue requirement* for a subsequent *regulatory control period*; and
- 7A the extent to which the costs that the provider has incurred and is likely to incur are the subject of a previous determination made by the *AER* under this clause 6.6.1; and
- (8) any other factors the *AER* considers relevant.

**Extension of time limits**

- (k) The *AER* must, by written notice to a *Distribution Network Service Provider*, extend a time limit fixed in clause 6.6.1(c) or clause 6.6.1(f) if the *AER* is satisfied that the difficulty of assessing or quantifying the effect of the relevant *pass through event* justifies the extension.

**retailer insolvency event**

- (l) For the purposes of calculating the *eligible pass through* amount in relation to a *positive change event* which is a *retailer insolvency event*, the increase in costs is the *retailer insolvency costs* excluding:
  - (i) any amount recovered or recoverable from a *retailer* or a guarantor of a *retailer* under any relevant *credit support*; and
  - (ii) amounts that the *Distribution Network Service Provider* is likely to receive on a winding-up of the *retailer*; and
  - (iii) any costs that are recoverable under a *RoLR cost recovery scheme distributor payment* determination.
- (m) The amount the *AER* determines should be passed through to *Distribution Network Users* in respect of a *retailer insolvency event* must be taken to be a cost that can be passed through and not a revenue impact of the event.

**Contributions to Climate Change Fund (NSW)**

- (l) Neither a requirement by an order under the *Energy and Utilities Administration Act 1987* of New South Wales to make a payment to the Climate Change Fund established under that Act, nor the making of a payment to that Fund, is a *pass through event* in relation to a NSW Distribution Network Service Provider, but the amount is recoverable in the following *regulatory year* under clause 6.18.2(b)(5A).

**6.6.1A \*\*\*\***

**6.6.2 Service target performance incentive scheme**

- (a) The *AER* may develop and *publish* an incentive scheme or incentive schemes (*service target performance incentive scheme*) to provide incentives (which may include targets) for *Distribution Network Service Providers* to maintain and improve performance.
- (b) In developing and implementing a *service target performance incentive scheme*, the *AER*:
  - (1) must consult with the authorities responsible for the administration of relevant *jurisdictional electricity legislation*; and
  - (2) must ensure that service standards and service targets (including guaranteed service levels) set by the scheme do not put at risk the *Distribution Network Service Provider's* ability to comply with relevant service standards and service targets (including guaranteed service levels) as specified in *jurisdictional electricity legislation*; and

**Note:**

A *service target performance incentive scheme* operates concurrently with any average or minimum service standards and guaranteed service level schemes that apply to the *Distribution Network Service Provider* under *jurisdictional electricity legislation*.

- (3) must take into account:
  - (i) the need to ensure that benefits to consumers likely to result from the scheme are sufficient to warrant any reward or penalty under the scheme for *Distribution Network Service Providers*; and
  - (ii) any *regulatory obligation or requirement* to which the *Distribution Network Service Provider* is subject; and
  - (iii) the past performance of the *distribution network*; and
  - (iv) any other incentives available to the *Distribution Network Service Provider* under the *Rules* or a relevant distribution determination; and
  - (v) the need to ensure that the incentives are sufficient to offset any financial incentives the service provider may have to reduce costs at the expense of service levels; and
  - (vi) the willingness of the customer or end user to pay for improved performance in the delivery of services; and
  - (vii) the possible effects of the scheme on incentives for the implementation of non-network alternatives.

- (c) The *AER* may, from time to time and with the agreement of each affected *Distribution Network Service Provider*, amend or replace any scheme that is developed and *published* under this clause.
- (d) The *AER* must *publish* a written statement, when it *publishes* its first *service target performance incentive scheme* (if any), setting out how it proposes the *service target performance incentive scheme* will operate for the next distribution determination. The statement may be included in the first *service target performance incentive scheme* or may be *published* separately.
- (e) However, despite *publishing* a *service target performance incentive scheme*, the *AER* need not apply the scheme to one or more *Distribution Network Service Providers* in the relevant distribution determination or determinations.
- (f) The *AER* may carry out such consultation in connection with the preparation of a *service target performance incentive scheme* as the *AER* thinks appropriate and may take into consideration any consultation carried out before the commencement date.
- (g) If a *service target performance incentive scheme* applicable to a NSW or ACT *Distribution Network Service Provider* is not *published* before 1 March 2008 or the date that is one month after the commencement date (whichever is the later), no *service target performance incentive scheme* may be applied to the *Distribution Network Service Provider* in its distribution determination for the regulatory control period 2009-2014.
- (h) The *AER* must monitor and collect information from any or all of the NSW and ACT *Distribution Network Service Providers* on matters relevant to be included in a *service target performance incentive scheme* for the purpose of developing, amending or applying a *service target performance incentive scheme* for the *regulatory control period* commencing on 1 July 2014.
- (i) The *AER* may, in connection with the application of a *service target performance incentive scheme* applying to EnergyAustralia in respect of EnergyAustralia prescribed (transmission) standard control services provided in the regulatory control period 2009-2014, adopt relevant provisions of the *service target performance incentive scheme* prepared and *published* by the *AER* under Chapter 6A so far as it is applicable to the service.
- (j) A *service target performance incentive scheme* applying to EnergyAustralia in respect of EnergyAustralia prescribed (transmission) standard control services should ensure that the maximum revenue increment or decrement as a result of the operation of the *service target performance incentive scheme* will fall within a range that is between 1% and 5% of the maximum allowed revenue for the relevant *regulatory year*.
- (k) A *service target performance incentive scheme* applying to the ACT *Distribution Network Service Provider* must not, without the agreement of



the provider, confer financial rewards or impose financial penalties on the provider for the regulatory control period 2009-2014, but this paragraph does not affect the operation of paragraph (h).

**Note:**

A *Distribution Network Service Provider* is not precluded from entering into a contract with a third party (such as a network support service provider) under which the benefits of a *service target performance incentive scheme* are passed on to the third party, or the third party is required to indemnify the provider for penalties to which the provider becomes liable under the scheme.

### 6.6.3 Demand management incentive scheme

- (a) The AER may develop and *publish* an incentive scheme or schemes (*demand management incentive scheme*) to provide incentives for *Distribution Network Service Providers* to implement efficient non-network alternatives or to manage the expected demand for *standard control services* in some other way.
- (b) In developing and implementing a *demand management incentive scheme*, the AER must have regard to:
  - (1) the need to ensure that benefits to consumers likely to result from the scheme are sufficient to warrant any reward or penalty under the scheme for *Distribution Network Service Providers*; and
  - (2) the effect of a particular control mechanism (i.e. price – as distinct from revenue – regulation) on a *Distribution Network Service Provider's* incentives to adopt or implement efficient non-network alternatives; and
  - (3) the extent the *Distribution Network Service Provider* is able to offer efficient pricing structures; and
  - (4) the possible interaction between a *demand management incentive scheme* and other incentive schemes; and
  - (5) the willingness of the customer or end user to pay for increases in costs resulting from implementation of the scheme.
- (c) The AER may, from time to time and with the agreement of each affected *Distribution Network Service Provider*, amend or replace any scheme that is developed and *published* under this clause.
- (d) Nothing in this clause limits the content of an *efficiency benefit sharing scheme*.
- (e) The AER must *publish* a written statement, when it *publishes* its first *demand management incentive scheme* (if any), setting out how it proposes the *demand management incentive scheme* will operate for the next distribution determination. The statement may be included in the first *demand management incentive scheme* or may be *published* separately.

- (f) The *AER* may carry out such consultation in connection with the preparation of the *demand management incentive scheme* as the *AER* thinks appropriate and may take into consideration any consultation carried out before the commencement date.
- (g) If a *demand management incentive scheme* applicable to a NSW or ACT Distribution Network Service Provider is not *published* by the *AER* before 1 March 2008 or the date that is one month after the commencement date (whichever is the later), no *demand management incentive scheme* may be applied to the *Distribution Network Service Provider* in its distribution determination for the regulatory control period 2009-2014.
- (h) Nothing in this clause affects the application of the D-factor carry forward referred to in clause 6.4.3(a)(8) and clause 6.4.3(b)(8).

## **Part D EnergyAustralia negotiated distribution services**

### **6.7 Negotiated distribution services**

This rule applies only to EnergyAustralia negotiated distribution services.

#### **6.7.1 Principles relating to access to negotiated distribution services**

The following principles constitute the *Negotiated Distribution Service Principles*:

- (1) the price for a *negotiated distribution service* should be based on the costs incurred in providing that service, determined in accordance with the principles and policies set out in the Cost Allocation Method for the relevant *Distribution Network Service Provider*;
- (2) subject to subparagraphs (3) and (4), the price for a *negotiated distribution service* should be at least equal to the cost that would be avoided by not providing the service but no more than the cost of providing it on a stand alone basis;
- (3) if the *negotiated distribution service* is the provision of a *shared distribution service* that:
  - (i) exceeds the *network* performance requirements (if any) which that *shared distribution service* is required to meet under any *jurisdictional electricity legislation*; or
  - (ii) exceeds the *network* performance requirements set out in schedules 5.1a and 5.1,

then the differential between the price for that service and the price for the *shared distribution service* which meets (but does not exceed) the *network* performance requirements under any *jurisdictional electricity legislation* or as set out in schedules 5.1a and 5.1 (as the case may be) should reflect the

increase in the *Distribution Network Service Provider's* incremental cost of providing that service;

- (4) if the *negotiated distribution service* is the provision of a *shared distribution service* that does not meet (and does not exceed) the *network* performance requirements set out in schedules 5.1a and 5.1, the differential between the price for that service and the price for the *shared distribution service* which meets (but does not exceed) the *network* performance requirements set out in schedules 5.1a and 5.1 should reflect the cost the *Distribution Network Service Provider* would avoid by not providing that service;
- (5) the price for a *negotiated distribution service* must be the same for all *Distribution Network Users* unless there is a material difference in the costs of providing the *negotiated distribution service* to different *Distribution Network Users* or classes of *Distribution Network Users*;
- (6) the price for a *negotiated distribution service* should be subject to adjustment over time to the extent that the assets used to provide that service are subsequently used to provide services to another person, in which case the adjustment should reflect the extent to which the costs of that asset are being recovered through charges to that other person;
- (7) the price for a *negotiated distribution service* should be such as to enable the *Distribution Network Service Provider* to recover the efficient costs of complying with all *regulatory obligations or requirements* associated with the provision of the *negotiated distribution service*;
- (8) any *access charges* should be based on the costs reasonably incurred by the *Distribution Network Service Provider* in providing *distribution network user access* and, in the case of compensation referred to in rule 5.4A(h) to (j), on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs;
- (9) the *terms and conditions of access* for a *negotiated distribution service* should be fair and reasonable and consistent with the safe and reliable operation of the *power system* in accordance with the *Rules* (for these purposes, the price for a *negotiated distribution service* is to be treated as being fair and reasonable if it complies with principles (1) to (7) of this clause;
- (10) the *terms and conditions of access* for a *negotiated distribution service* (including, in particular, any exclusions and limitations of liability and indemnities) must not be unreasonably onerous taking into account the allocation of risk between the *Distribution Network Service Provider* and the other party, the price for the *negotiated distribution service* and the costs to the *Distribution Network Service Provider* of providing the *negotiated distribution service*;
- (11) the *terms and conditions of access* for a *negotiated distribution service* should take into account the need for the service to be provided in a manner

that does not adversely affect the safe and reliable operation of the *power system* in accordance with the *Rules*.

#### **6.7.2 Determination of terms and conditions of access for negotiated distribution services**

- (a) A *Distribution Network Service Provider* must comply with:
  - (1) the provider's *negotiating framework*; and
  - (2) the provider's *Negotiated Distribution Service Criteria*,  
  
when the provider is negotiating the terms and conditions of access to *negotiated distribution services*.
- (b) The *Distribution Network Service Provider* must also comply with any other applicable requirements of the *Rules*, including the requirements of:
  - (1) rules 5.3 and 5.4A, when negotiating for the provision of *connection services* and the associated *connection service* charges; and
  - (2) rule 5.4A when negotiating the *use of system services charges* and *access charges* to be paid to or by a *Distribution Network User*.

#### **6.7.3 Negotiating framework determination**

The determination specifying requirements relating to the *negotiating framework* forming part of a distribution determination for a *Distribution Network Service Provider* is to set out requirements that are to be complied with in respect of the preparation, replacement, application or operation of its *negotiating framework*.

#### **6.7.4 Negotiated Distribution Service Criteria determination**

- (a) The determination by the *AER* specifying the *Negotiated Distribution Service Criteria* forming part of a distribution determination for a *Distribution Network Service Provider* is to set out the criteria that are to be applied:
  - (1) by the provider in negotiating *terms and conditions of access* including:
    - (i) the prices that are to be charged for the provision of *negotiated distribution services* by the provider for the relevant *regulatory control period*; or
    - (ii) any *access charges* which are negotiated by the provider during that *regulatory control period*; and
  - (2) by the *AER* in resolving an access dispute about *terms and conditions of access* including:

- (i) the price that is to be charged for the provision of a *negotiated distribution service* by the provider; or
  - (ii) any *access charges* that are to be paid to or by the provider.
- (b) The *Negotiated Distribution Service Criteria* must give effect to and be consistent with the *Negotiated Distribution Service Principles* set out in clause 6.7.1.

#### **6.7.5 Preparation of and requirements for negotiating framework for negotiated distribution services**

- (a) A *Distribution Network Service Provider* must prepare a document (the *negotiating framework*) setting out the procedure to be followed during negotiations between that provider and any person (the *Service Applicant* or applicant) who wishes to receive a *negotiated distribution service* from the provider, as to the *terms and conditions of access* for the provision of the service.
- (b) The *negotiating framework* for a *Distribution Network Service Provider* must comply with and be consistent with:
  - (1) the applicable requirements of the relevant distribution determination; and

**Note:**

See clause 6.7.3.

  - (2) paragraph (c), which sets out the minimum requirements for a *negotiating framework*.
- (c) The *negotiating framework* for a *Distribution Network Service Provider* must specify:
  - (1) a requirement for the provider and a *Service Applicant* to negotiate in good faith the *terms and conditions of access* to a *negotiated distribution service*; and
  - (2) a requirement for the provider to provide all such commercial information a *Service Applicant* may reasonably require to enable that applicant to engage in effective negotiation with the provider for the provision of the *negotiated distribution service*, including the cost information described in subparagraph (3); and
  - (3) a requirement for the provider:
    - (i) to identify and inform a *Service Applicant* of the reasonable costs and/or the increase or decrease in costs (as appropriate) of providing the *negotiated distribution service*; and

- (ii) to demonstrate to a *Service Applicant* that the charges for providing the *negotiated distribution service* reflect those costs and/or the cost increment or decrement (as appropriate); and
- (iii) to have appropriate arrangements for assessment and review of the charges and the basis on which they are made; and

**Note:**

If (for example) a charge, or an element of a charge, is based on a customer's actual or assumed *maximum demand*, the assessment and review arrangements should allow for a change to the basis of the charge so that it more closely reflects the customer's *load* profile where a reduction or increase in *maximum demand* has been demonstrated.

- (4) a requirement for a *Service Applicant* to provide all commercial information the provider may reasonably require to enable the provider to engage in effective negotiation with that applicant for the provision of the *negotiated distribution service*; and
  - (5) a requirement that negotiations with a *Service Applicant* for the provision of the *negotiated distribution service* be commenced and finalised within specified periods and a requirement that each party to the negotiations must make reasonable endeavours to adhere to the specified time limits; and
  - (6) a process for dispute resolution which provides that all disputes as to the *terms and conditions of access* for the provision of *negotiated distribution services* are to be dealt with in accordance with the relevant provisions of the Law and the *Rules* for dispute resolution; and
  - (7) the arrangements for payment by a *Service Applicant* of the provider's reasonable direct expenses incurred in processing the application to provide the *negotiated distribution service*; and
  - (8) a requirement that the *Distribution Network Service Provider* determine the potential impact on other *Distribution Network Users* of the provision of the *negotiated distribution service*; and
  - (9) a requirement that the *Distribution Network Service Provider* must notify and consult with any affected *Distribution Network Users* and ensure that the provision of *negotiated distribution services* does not result in non-compliance with obligations in relation to other *Distribution Network Users* under the *Rules*; and
  - (10) a requirement that the *Distribution Network Service Provider* publish the results of negotiations on its website.
- (d) Notwithstanding the foregoing, the *negotiating framework* must not be inconsistent with any of the requirements of Rules 5.3 and 5.4A and other relevant provisions of this Chapter 6 and Chapter 6A and, in the event of any inconsistency, those requirements prevail.

- (e) Each *Distribution Network Service Provider* and *Service Applicant* who is negotiating for the provision of a *negotiated distribution service* by the provider must comply with the requirements of the *negotiating framework* in accordance with its terms.

#### 6.7.6 Confidential information

- (a) Commercial information to be provided to a *Service Applicant* in accordance with clause 6.7.5(c)(2):
  - (1) does not include *confidential information* provided to the *Distribution Network Service Provider* by another person; and
  - (2) may be provided subject to a condition that the *Service Applicant* must not provide any part of that commercial information to any other person without the consent of the *Distribution Network Service Provider*.
- (b) Commercial information to be provided to a *Distribution Network Service Provider* in accordance with clause 6.7.5(c)(4):
  - (1) does not include *confidential information* provided to a *Service Applicant* by another person; and
  - (2) may be provided subject to a condition that the provider must not provide any part of that commercial information to any other person without the consent of the *Service Applicant*.

### Part DA Negotiable components of direct control services (NSW and ACT)

#### 6.7A Negotiable components of direct control services

- (a) The *AER* may include in a *Distribution Network Service Provider's* distribution determination a decision that one or more components of the provider's *direct control services* are negotiable components.
- (b) A negotiable component may be a particular component of the *direct control service* or may relate to the terms or conditions on which a *direct control service* or a component of a *direct control service* is provided.
- (c) A reference in this rule 6.7A to the price for a negotiable component of a *direct control service* is a reference to the price for the *direct control service* if the negotiable component is successfully negotiated by the *Distribution Network Service Provider* and the *Service Applicant* concerned.
- (d) The following provisions of Rule 6.7A have effect if the *AER* decides that one or more components of *direct control services* provided by a *Distribution Network Service Provider* are negotiable components (as referred to in paragraph (a)).

### 6.7A.1 Principles relating to access to negotiable components

The following principles constitute the negotiable component principles:

- (1) the price for a negotiable component should be the price for that component in the *Distribution Network Service Provider's approved pricing proposal*, unless the terms and conditions sought for the component are so different from those used for the purposes of establishing the *approved pricing proposal* as to warrant determination of the price without regard to this subparagraph;
- (2) subject to subparagraph (1), the price for a negotiable component should be based on the costs incurred in providing that component, determined in accordance with the principles and policies set out in the Cost Allocation Method for the relevant *Distribution Network Service Provider*;
- (3) subject to subparagraphs (1), (4) and (5), the price for a negotiable component should be at least equal to the cost that would be avoided by not providing it but no more than the cost of providing it on a stand alone basis;
- (4) subject to subparagraph (1), if the *direct control service* of which the negotiable component is a component is the provision of a *shared distribution service* that:
  - (i) exceeds the *network* performance requirements (if any) which that *shared distribution service* is required to meet under any *jurisdictional electricity legislation*; or
  - (ii) exceeds the *network* performance requirements set out in schedules 5.1a and 5.1,

then the differential between the price for that *direct control service* and the price for the *shared distribution service* which meets (but does not exceed) the *network* performance requirements under any *jurisdictional electricity legislation* or as set out in schedules 5.1a and 5.1 (as the case may be) should reflect the increase in the *Distribution Network Service Provider's* incremental cost of providing that service;

- (5) subject to subparagraph (1), if the *direct control service* of which the negotiable component is a component is the provision of a *shared distribution service* that does not meet (and does not exceed) the *network* performance requirements set out in schedules 5.1a and 5.1, then the differential between the price for that service and the price for the *shared distribution service* which meets (but does not exceed) the *network* performance requirements set out in schedules 5.1a and 5.1 should reflect the cost the *Distribution Network Service Provider* would avoid by not providing that service;
- (6) subject to subparagraph (1), the price for a negotiable component must be the same for all *Distribution Network Users* unless there is a material difference in the costs of providing the negotiable component to different *Distribution Network Users* or classes of *Distribution Network Users*;



- (7) subject to subparagraph (1), the price for a negotiable component should be subject to adjustment over time to the extent that the assets used to provide the *direct control service* are subsequently used to provide services to another person, in which case the adjustment should reflect the extent to which the costs of those assets are being recovered through charges to that other person;
- (8) subject to subparagraph (1), the price for a negotiable component should be such as to enable the *Distribution Network Service Provider* to recover the efficient costs of complying with all *regulatory obligations or requirements* associated with the provision of the negotiable component;
- (9) any *access charges* should be based on the costs reasonably incurred by the *Distribution Network Service Provider* in providing *distribution network user access* and, in the case of compensation referred to in clause 5.5(f)(4)(ii) and (iii), on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs;
- (10) the *terms and conditions of access* for a negotiable component should be fair and reasonable and consistent with the safe and reliable operation of the *power system* in accordance with the *Rules* (for these purposes, the price for a negotiable component is to be treated as being fair and reasonable if it complies with principles (1) to (8) of this clause);
- (11) the *terms and conditions of access* for a negotiable component (including, in particular, any exclusions and limitations of liability and indemnities) must not be unreasonably onerous taking into account the allocation of risk between the *Distribution Network Service Provider* and the other party, the price for the negotiable component and the costs to the *Distribution Network Service Provider* of providing the negotiable component; and
- (12) the *terms and conditions of access* for a negotiable component should take into account the need for the *direct control service* to be provided in a manner that does not adversely affect the safe and reliable operation of the *power system* in accordance with the *Rules*.

#### **6.7A.2 Determination of terms and conditions of access for negotiable components**

- (a) A *Distribution Network Service Provider* must comply with:
  - (1) the provider's *negotiating framework*; and
  - (2) the provider's negotiable component criteria,when the provider is negotiating the *terms and conditions of access* to negotiable components.
- (b) The *Distribution Network Service Provider* must also comply with any other applicable requirements of the *Rules*, including the requirements of:

- (1) rules 5.3, 5.4A and 5.5, when negotiating for the provision of *connection services* and the associated *connection service charges*; and
- (2) rules 5.4A and 5.5 when negotiating the *use of system services charges* and *access charges* to be paid to or by a *Distribution Network User*.

### 6.7A.3 Negotiating framework determination

The determination specifying requirements relating to the *negotiating framework* forming part of a distribution determination for a *Distribution Network Service Provider* is to set out requirements that are to be complied with in respect of the preparation, replacement, application or operation of its *negotiating framework*.

### 6.7A.4 Negotiable component criteria determination

- (a) The determination by the *AER* specifying the negotiable component criteria forming part of a distribution determination for a *Distribution Network Service Provider* is to set out the criteria that are to be applied:
  - (1) by the provider in negotiating *terms and conditions of access* including:
    - (i) the variations to the prices that are to be charged for the provision of the negotiable component of the *direct control service* concerned by the provider for the relevant *regulatory control period*; and
    - (ii) any *access charges* which are negotiated by the provider during that *regulatory control period*; and
  - (2) by the *AER* in resolving an access dispute, between the *Distribution Network Service Provider* and a person who wishes to be provided with a negotiable component, in relation to *terms and conditions of access* including:
    - (i) the variation of the prices that are to be charged for the provision of the negotiable component of the *direct control service* concerned by the provider; and
    - (ii) any *access charges* that are to be paid to or by the provider.
- (b) The negotiable component criteria must give effect to and be consistent with the principles set out in clause 6.7A.1.

### 6.7A.5 Preparation of and requirements for negotiating framework

- (a) A *Distribution Network Service Provider* must prepare a document (the *negotiating framework*) setting out the procedure to be followed during negotiations between that provider and any person (the *Service Applicant* or

applicant) who wishes to be provided with a negotiable component from the provider, as to the *terms and conditions of access* for the provision of the component.

- (b) The *negotiating framework* for a *Distribution Network Service Provider* must comply with and be consistent with:
  - (1) the applicable requirements of a distribution determination applying to the provider; and
  - (2) paragraph (c), which sets out the minimum requirements for a *negotiating framework*.
- (c) The *negotiating framework* for a *Distribution Network Service Provider* must specify:
  - (1) a requirement for the provider and a *Service Applicant* to negotiate in good faith the *terms and conditions of access* to a negotiable component; and
  - (2) a requirement for the provider to provide all such commercial information a *Service Applicant* may reasonably require to enable that applicant to engage in effective negotiation with the provider for the provision of the negotiable component, including the cost information described in subparagraph (3); and
  - (3) a requirement for the provider:
    - (i) to identify and inform a *Service Applicant* of the reasonable costs and/or the increase or decrease in costs (as appropriate) of providing the negotiable component; and
    - (ii) to demonstrate to a *Service Applicant* that the charges for providing the negotiable component reflect those costs and/or the cost increment or decrement (as appropriate); and
    - (iii) to have appropriate arrangements for assessment and review of the charges and the basis on which they are made;

**Note:**

If (for example) a charge, or an element of a charge, is based on a customer's actual or assumed *maximum demand*, the assessment and review arrangements should allow for a change to the basis of the charge so that it more closely reflects the customer's *load* profile where a reduction or increase in *maximum demand* has been demonstrated.

- (4) a requirement for a *Service Applicant* to provide all commercial information the provider may reasonably require to enable the provider to engage in effective negotiation with that applicant for the provision of the negotiable component; and
- (5) a requirement that negotiations with a *Service Applicant* for the provision of the negotiable component be commenced and finalised

- within specified periods and a requirement that each party to the negotiations must make reasonable endeavours to adhere to the specified time limits; and
- (6) a process for dispute resolution which provides that all disputes as to the *terms and conditions of access* for the provision of negotiable components are to be dealt with in accordance with the relevant provisions of the Law and the *Rules* for dispute resolution; and
  - (7) the arrangements for payment by a *Service Applicant* of the provider's reasonable direct expenses incurred in processing the application to provide the negotiable component; and
  - (8) a requirement that the *Distribution Network Service Provider* determine the potential impact on other *Distribution Network Users* of the provision of the negotiable component; and
  - (9) a requirement that the *Distribution Network Service Provider* must notify and consult with any affected *Distribution Network Users* and ensure that the provision of negotiable components does not result in non-compliance with obligations in relation to other *Distribution Network Users* under the *Rules*; and
  - (10) a requirement that the *Distribution Network Service Provider* publish the results of negotiations on its website.
- (d) Notwithstanding the foregoing, the *negotiating framework* must not be inconsistent with any of the requirements of Rules 5.3, 5.4A and 5.5 and other relevant provisions of this Chapter 6 and Chapter 6A and, in the event of any inconsistency, those requirements prevail.
  - (e) Each *Distribution Network Service Provider* and *Service Applicant* who is negotiating for the provision of a negotiable component by the provider must comply with the requirements of the *negotiating framework* in accordance with its terms.
  - (f) EnergyAustralia may prepare and submit a document that contains both the *negotiating framework* under this clause 6.7A.5 and the *negotiating framework* under clause 6.7.5, and both frameworks may be combined in a single framework.

#### **6.7A.6 Confidential information**

- (a) Commercial information to be provided to a *Service Applicant* in accordance with clause 6.7A.5(c)(2):
  - (1) does not include *confidential information* provided to the *Distribution Network Service Provider* by another person; and
  - (2) may be provided subject to a condition that the *Service Applicant* must not provide any part of that commercial information to any other

person without the consent of the *Distribution Network Service Provider*.

- (b) Commercial information to be provided to a *Distribution Network Service Provider* in accordance with clause 6.7A.5(c)(4):
  - (1) does not include *confidential information* provided to a *Service Applicant* by another person; and
  - (2) may be provided subject to a condition that the provider must not provide any part of that commercial information to any other person without the consent of the *Service Applicant*.

## **Part E Regulatory proposal**

### **6.8 Regulatory proposal**

#### **6.8.1 \*\*\*\*\***

#### **6.8.2 Submission of regulatory proposal**

- (a) A *Distribution Network Service Provider* must, whenever required to do so under paragraph (b), submit a *regulatory proposal* to the AER for *distribution services* provided by means of, or in connection with, the provider's *distribution system*.
- (b) A *regulatory proposal* must be submitted on or before 2 June 2008.
- (c) A *regulatory proposal* must include (but need not be limited to) the following elements:
  - (1) \*\*\*\*\*
  - (2) for *direct control services* classified as *standard control services* – a *building block proposal*; and
  - (3) \*\*\*\*\*
  - (3A) for *direct control services* classified as *alternative control services*:
    - (i) the proposed control mechanism, a demonstration of the application of the proposed control mechanism, and the necessary supporting information; and
    - (ii) in the case of a departure from the AER's likely approach to the relevant control mechanisms for *alternative control services* (as indicated in a statement *published* under clause 6.2.5(e)) a statement of the reasons justifying the departure; and
  - (4) for *direct control services* – indicative prices for each year of the *regulatory control period*; and

- (5) \*\*\*\*\*
  - (6) an indication of the parts of the proposal (if any) the *Distribution Network Service Provider* claims to be confidential and wants suppressed from publication on that ground; and
  - (7) for *direct control services* – a proposal as to whether any (and, if so, which) components of *direct control services* should be negotiable components; and
  - (8) for negotiable components of *direct control services* classified under the proposal as *negotiated distribution services* – the proposed *negotiating framework*; and
  - (9) for EnergyAustralia prescribed (transmission) standard control services - a proposed pricing methodology; and
  - (10) for EnergyAustralia negotiated distribution services classified under the proposal as *negotiated distribution services* – the proposed *negotiating framework*.
- (d) The *regulatory proposal* must comply with the requirements of, and must contain or be accompanied by the information required by any relevant *regulatory information instrument*.
  - (e) \*\*\*\*\*
  - (f) \*\*\*\*\*

## **6.9 Preliminary examination and consultation**

### **6.9.1 Preliminary examination**

- (a) If the *AER* considers that a *regulatory proposal* (or the accompanying information) does not comply, in any respect, with a requirement of the Law or the *Rules*, the *AER* may notify the provider that it requires resubmission of the proposal.
- (b) The notice must be given as soon as practicable and must state why, and in what respects, the *AER* considers the *regulatory proposal* to be non-compliant.

### **6.9.2 Resubmission of proposal**

- (a) A *Distribution Network Service Provider* must, within 20 *business days* after receiving a notice under clause 6.9.1, resubmit its *regulatory proposal* in an amended form that complies with the relevant requirements set out in the notice.
- (b) A *Distribution Network Service Provider* may only make changes to its *regulatory proposal* to address the deficiencies identified in the notice.

### 6.9.3 Consultation

- (a) Subject to the provisions of the Law and the *Rules* about the disclosure of *confidential information*, the *AER* must *publish* a *regulatory proposal* submitted or resubmitted to it by the *Distribution Network Service Provider* under this Part, together with:
  - (1) the *AER's* proposed negotiable component criteria for the provider; and
  - (1A) in the case of EnergyAustralia negotiated distribution services provided by EnergyAustralia - the *AER's* proposed *Negotiated Distribution Service Criteria*; and
  - (2) an invitation for written submissions on the *regulatory proposal* and the proposed *Negotiated Distribution Service Criteria* or proposed negotiable component criteria (or both),

after the *AER* decides that the *regulatory proposal* complies (or that there is sufficient compliance) with the requirements of the Law and the *Rules*.

- (b) The *AER* may *publish* an issues paper examining issues related to the *regulatory proposal* and the proposed negotiable component criteria (and, in the case of EnergyAustralia negotiated distribution services provided by EnergyAustralia, the proposed *Negotiated Distribution Service Criteria*), at the same time as, or subsequent to, *publication* of the invitation referred to in paragraph (a)(2).
- (c) Any person may make a written submission to the *AER* on the *regulatory proposal* or the proposed negotiable component criteria (or, in the case of EnergyAustralia negotiated distribution services provided by EnergyAustralia, the proposed *Negotiated Distribution Service Criteria*) within the time specified in the invitation referred to in paragraph (a)(2), which must be not earlier than 30 *business days* after the invitation for submissions is *published* under that paragraph.

## 6.10 Draft distribution determination and further consultation

### 6.10.1 Making of draft distribution determination

Subject to rule 6.14(a), the *AER* must consider any written submissions made under rule 6.9 and must make a draft distribution determination in relation to the *Distribution Network Service Provider*.

### 6.10.2 Publication of draft determination and consultation

- (a) The *AER* must *publish*:
  - (1) the draft distribution determination; and
  - (2) notice of the making of the draft distribution determination; and

- (3) the *AER's* reasons for suggesting that the distribution determination should be made as proposed including the draft constituent decisions i.e. the decisions made in accordance with rule 6.12 on which the draft distribution determination is predicated; and
  - (4) notice of a predetermination conference; and
  - (5) an invitation for written submissions on its draft distribution determination.
- (b) The *AER* must hold a predetermination conference at the time, date and place specified in the notice under paragraph (a)(4) for the purpose of explaining the draft distribution determination and receiving oral submissions from interested parties. Any person may attend such a predetermination conference but the procedure to be adopted at the conference will be at the discretion of the senior *AER* representative in attendance.
- (c) Any person may make a written submission to the *AER* on the draft distribution determination within the time specified in the invitation referred to in paragraph (a)(5), which must be not earlier than 30 *business days* after the making of the draft determination.

### 6.10.3 Submission of revised proposal

- (a) In addition to making written submissions, the *Distribution Network Service Provider* may, not more than 30 *business days* after the publication of the draft distribution determination, submit a revised *regulatory proposal* to the *AER*.
- (b) A *Distribution Network Service Provider* may only make the revisions referred to in paragraph (a) so as to incorporate the substance of any changes required to address matters raised by the draft distribution determination or the *AER's* reasons for it.
- (c) A revised *regulatory proposal* must comply with the requirements of, and must contain or be accompanied by the information required by, any relevant *regulatory information instrument*.
- (d) Subject to the provisions of the Law and the *Rules* about the disclosure of *confidential information*, the *AER* must *publish* a *regulatory proposal* submitted by the *Distribution Network Service Provider* under paragraph (a), together with the accompanying information, as soon as practicable after receipt by the *AER*.
- (e) The *AER* may, but need not, invite written submissions on the revised *regulatory proposal*.



## **6.11 Distribution determination**

### **6.11.1 Making of distribution determination**

Subject to rule 6.14(a), the *AER* must consider any submissions made on the draft distribution determination, or on any revised *regulatory proposal* submitted to it under clause 6.10.3, and must make a distribution determination in relation to the *Distribution Network Service Provider*.

### **6.11.2 Notice of distribution determination**

The *AER* must as soon as practicable, but not later than 2 months before the commencement of the relevant *regulatory control period*, *publish*:

- (1) notice of the making of the distribution determination; and
- (2) the distribution determination itself; and
- (3) the *AER's* reasons for making the distribution determination in its final form including the constituent decisions i.e. the decisions made in accordance with rule 6.12 on which the distribution determination is predicated.

### **6.11.3 Commencement of distribution determination**

- (a) A distribution determination takes effect at the commencement of the *regulatory control period* to which it relates.
- (b) If a period intervenes between the end of one *regulatory control period* and the commencement of a new distribution determination providing for the next *regulatory control period*:
  - (1) the previous distribution determination continues in force during the intervening period; and
  - (2) the last pricing proposal approved by the IPART or ICRC, as the case requires, in the previous *regulatory control period* continues in force (despite any contrary provision of these *Rules*) during the intervening period and the first *regulatory year* of the *regulatory control period*; and
  - (3) the later distribution determination is to make provision for appropriate adjustments to the *approved pricing proposals* for subsequent *regulatory years* of the *regulatory control period*.

## **6.12 Requirements relating to draft and final distribution determinations**

### **6.12.1 Constituent decisions**

A distribution determination is predicated on the following decisions by the *AER* (**constituent decisions**):

- (1) a decision on the classification of the services to be provided by the *Distribution Network Service Provider* during the course of the *regulatory control period*;
- (2) a decision on the *Distribution Network Service Provider's* current *building block proposal* in which the *AER* either approves or refuses to approve:
  - (i) the *annual revenue requirement* for the provider, as set out in the *building block proposal*, for each *regulatory year* of the *regulatory control period*; and
  - (ii) \*\*\*\*\*
- (3) a decision in which the *AER* either:
  - (i) acting in accordance with clause 6.5.7(c), accepts the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *building block proposal*; or
  - (ii) acting in accordance with clause 6.5.7(d), does not accept the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *building block proposal*, in which case the *AER* must set out its reasons for that decision and an estimate of the total of the *Distribution Network Service Provider's* required capital expenditure for the *regulatory control period* that the *AER* is satisfied reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*;
- (4) a decision in which the *AER* either:
  - (i) acting in accordance with clause 6.5.6(c), accepts the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *building block proposal*; or
  - (ii) acting in accordance with clause 6.5.6(d), does not accept the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *building block proposal*, in which case the *AER* must set out its reasons for that decision and an estimate of the total of the *Distribution Network Service Provider's* required operating expenditure for the *regulatory control period* that the *AER* is satisfied reasonably reflects the *operating expenditure criteria*, taking into account the *operating expenditure factors*;
- (5) a decision in relation to the rate of return in accordance with clause 6.5.2;
- (6) a decision on the regulatory asset base as at the commencement of the *regulatory control period* in accordance with clause 6.5.1 and schedule 6.2;
- (7) a decision on the estimated cost of corporate income tax to the provider for each *regulatory year* of the *regulatory control period* in accordance with clause 6.5.3;

- (8) a decision on whether or not to approve the depreciation schedules submitted by the *Distribution Network Service Provider* and, if the AER decides against approving them, a decision determining depreciation schedules in accordance with clause 6.5.5(b);
- (9) a decision on how any applicable *efficiency benefit sharing scheme*, *service target performance incentive scheme*, or *demand management incentive scheme* is to apply to the *Distribution Network Service Provider*;
- (10) a decision in which the AER decides other appropriate amounts, values or inputs;
- (11) a decision on the control mechanism (including the X factor) for *standard control services*;
- (12) a decision on the control mechanism for *alternative control services*;
- (13) a decision on how compliance with a relevant control mechanism is to be demonstrated;
- (14) a decision on the additional *pass through events* that are to apply for the *regulatory control period*;
- (15) a decision on any *negotiating framework* that is to apply to the *Distribution Network Service Provider* for the *regulatory control period* (which may be the *negotiating framework* as proposed by the provider, some variant of it, or a framework substituted by the AER);
- (16) if relevant, a decision in which the AER decides the *Negotiated Distribution Service Criteria* for the *Distribution Network Service Provider*;
- (16A) a decision in which the AER decides which, if any, components of *direct control services* are negotiable components;
- (16B) if relevant, a decision in which the AER decides the negotiable component criteria for the *Distribution Network Service Provider*;
- (17) a decision on the procedures for assigning customers to *tariff classes*, or reassigning customers from one *tariff class* to another (including any applicable restrictions);
- (18) a decision on whether depreciation for establishing the regulatory asset base as at the commencement of the following *regulatory control period* is to be based on actual or forecast capital expenditure;
- (19) a decision on how the *Distribution Network Service Provider* is to report to the AER on its recovery of *Transmission Use of System* charges for each *regulatory year* of the *regulatory control period* and on the adjustments to be made to subsequent *pricing proposals* to account for over or under recovery of those charges;
- (20) \*\*\*\*\*

- (20A) for EnergyAustralia prescribed (transmission) standard control services – a decision on the proposed pricing methodology, in which the *AER* either approves or refuses to approve that methodology and sets out reasons for its decision.

#### **6.12.1A Division of EnergyAustralia's revenue**

- (a) The *AER* must, in the distribution determination for EnergyAustralia, divide the revenue calculated under Part C into the following two portions:
- (1) a portion relevant to EnergyAustralia prescribed (transmission) standard control services;
  - (2) a portion relevant to other *standard control services* provided by EnergyAustralia,
- based on EnergyAustralia's approved Cost Allocation Method.
- (b) The pricing rules in Part J of Chapter 6A are to be applied to the portion referred to in paragraph (a)(1) instead of the pricing rules in Part I of transitional Chapter 6.
- (c) The pricing rules in Part I of transitional Chapter 6 are to be applied to the portion referred to in paragraph (a)(2).

#### **6.12.2 Reasons for decisions**

The reasons given by the *AER* for a draft distribution determination under rule 6.10 or a final distribution determination under rule 6.11 must set out the basis and rationale of the determination, including:

- (1) details of the qualitative and quantitative methods applied in any calculations and formulae made or used by the *AER*; and
- (2) the values adopted by the *AER* for each of the input variables in any calculations and formulae, including:
  - (i) whether those values have been taken or derived from the provider's current *building block proposal*; and
  - (ii) if not, the rationale for the adoption of those values; and
- (3) details of any assumptions made by the *AER* in undertaking any material qualitative and quantitative analyses; and
- (4) reasons for the making of any decisions, the giving or withholding of any approvals, and the exercise of any discretions, as referred to in this Chapter 6, for the purposes of the determination.

### 6.12.3 Extent of AER's discretion in making distribution determinations

- (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 a *regulatory proposal*.
- (b) \*\*\*\*\*
- (c) \*\*\*\*\*
- (d) The *AER* must approve the *total revenue requirement* for a *Distribution Network Service Provider* for a *regulatory control period*, and the *annual revenue requirement* for each *regulatory year* of the *regulatory control period*, as set out in the provider's current *building block proposal*, if the *AER* is satisfied that those amounts have been properly calculated using the *post-tax revenue model* on the basis of amounts calculated, determined or forecast in accordance with the requirements of Part C of this Chapter 6.
- (e) \*\*\*\*\*
- (f) If the *AER* refuses to approve an amount, value or methodology referred to in clause 6.12.1, the substitute amount, value or methodology on which the distribution determination is based must be:
  - (1) determined on the basis of the current *regulatory proposal*; and
  - (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the *Rules*.
- (g) The *AER* must approve a proposed *negotiating framework* if the *AER* is satisfied that it adequately complies with the requirements of Part D or DA (as the case requires).
- (h) If the *AER* refuses to approve a proposed *negotiating framework*, any approved amended *negotiating framework* must be:
  - (1) determined on the basis of the current proposed *negotiating framework*; and
  - (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the *Rules*.
- (i) The *AER* must approve EnergyAustralia's proposed pricing methodology for EnergyAustralia prescribed (transmission) standard control services if the *AER* is satisfied that the methodology:
  - (1) gives effect to and is consistent with the *Pricing Principles for Prescribed Transmission Services*; and
  - (2) complies with the requirements of the *pricing methodology guidelines*.

### 6.13 Revocation and substitution of distribution determination for wrong information or error

- (a) The *AER* may (but is not required to) revoke a distribution determination during a *regulatory control period* if it appears to the *AER* that the determination is affected by a material error or deficiency of one or more of the following kinds:
  - (1) a clerical mistake or an accidental slip or omission;
  - (2) a miscalculation or misdescription;
  - (3) a defect in form;
  - (4) a deficiency resulting from the provision of false or materially misleading information to the *AER*.
- (b) If the *AER* revokes a distribution determination under paragraph (a), the *AER* must make a new distribution determination in substitution for the revoked determination to apply for the remainder of the *regulatory control period* for which the revoked determination was to apply.
- (c) If the *AER* revokes a distribution determination under paragraph (a), the substituted determination must only vary from the revoked determination to the extent necessary to correct the relevant error or deficiency.
- (d) The *AER* may only revoke and substitute a distribution determination under this rule 6.13, if it has first consulted with the relevant *Distribution Network Service Provider* and such other persons as it considers appropriate.

### 6.14 Miscellaneous

- (a) The *AER* may, but is not required to, consider any submission made pursuant to an invitation for submissions after the time for making the submission has expired.
- (b) Nothing in this Part E is to be construed as precluding the *AER* from *publishing* any issues, consultation and discussion papers, or holding any conferences and information sessions, that the *AER* considers appropriate.
- (c) Subject to paragraph (d), as soon as practicable after the *AER* receives a submission in response to an invitation referred to in clause 6.9.3(a)(2) or 6.10.2(a)(5) (whether or not the submission was made before the time for making it has expired), the *AER* must *publish* that submission.
- (d) The *AER* must not *publish* a submission referred to in paragraph (c) to the extent it contains information which has been clearly identified as confidential by the person making the submission.
- (e) The *AER* may give such weight to *confidential information* identified in accordance with paragraph (d) in a submission as it considers appropriate,

having regard to the fact that such information has not been made publicly available.

- (f) Paragraph (d) does not apply to the extent that any other provision of the Law or the *Rules* permits or requires such information to be publicly released by the *AER*.

## **Part F Cost Allocation**

### **6.15 Cost allocation**

#### **6.15.1 Duty to comply with Cost Allocation Method**

- (a) A *Distribution Network Service Provider* must comply with the Cost Allocation Method that has been approved in respect of that provider from time to time by the *AER* under this rule 6.15 in respect of the regulatory control period 2009-2014.
- (b) A *Distribution Network Service Provider* is, during the regulatory control period 2009-2014, also subject to the requirements of Part F of general Chapter 6 but only for the purposes of and in connection with the distribution determination to be made for the subsequent *regulatory control period*.

**6.15.2 \*\*\*\*\***

**6.15.3 \*\*\*\*\***

**6.15.4 \*\*\*\*\***

### **Provisions applicable to the NSW Distribution Network Service Providers**

#### **6.15.5 Cost Allocation Guidelines (NSW)**

The Accounting Separation Code for Electricity Distributors in NSW prepared by the IPART and in force immediately before the start of the regulatory control period 2009-2014 in relation to the NSW Distribution Network Service Providers are deemed to be Cost Allocation Guidelines made by the *AER* for the regulatory control period 2009-2014.

#### **6.15.6 Cost Allocation Method (NSW)**

- (a) Each NSW Distribution Network Service Provider must submit to the *AER* for its approval a document setting out its proposed Cost Allocation Method for the regulatory control period 2009-2014 within 1 month after the commencement date.
- (b) The Cost Allocation Method proposed by a NSW Distribution Network Service Provider must:

- (1) give effect to and be consistent with the Cost Allocation Guidelines; and
  - (2) be prepared using, as far as practicable but subject to subparagraph (1), the same cost allocation method as it last used when preparing its regulatory accounts for submission to the IPART.
- (c) The *AER* may approve or refuse to approve a Cost Allocation Method submitted under paragraph (a), but must approve it if the *AER* is satisfied that it:
  - (1) gives effect to and is consistent with the Cost Allocation Guidelines; and
  - (2) has been prepared, as far as practicable but subject to subparagraph (1), using the cost allocation method the relevant *Distribution Network Service Provider* last used when preparing its regulatory accounts for submission to the IPART.
- (d) The *AER* must notify the relevant *Distribution Network Service Provider* of its decision to approve or refuse to approve the Cost Allocation Method submitted to it under paragraph (a) within 2 months of its submission, failing which the *AER* will be taken to have approved it.
- (e) As part of giving any approval referred to in paragraph (c), the *AER* may, after consulting with the relevant *Distribution Network Service Provider*, amend the Cost Allocation Method submitted to it, in which case the Cost Allocation Method as so amended will be taken to be approved by the *AER*.
- (f) A NSW Distribution Network Service Provider may, with the *AER's* approval, amend its Cost Allocation Method from time to time but:
  - (1) the amendment:
    - (i) may be approved on condition that the *Distribution Network Service Provider* agree to incorporate into the amendment specified additional changes to the Cost Allocation Method the *AER* reasonably considers necessary or desirable as a result of the amendment as submitted; and
    - (ii) if approved on such a condition, does not take effect unless and until the *Distribution Network Service Provider* notifies the *AER* of its agreement;
  - (2) if 6 months elapse from the date of the submission of the amendment and the *AER* has not notified the *Distribution Network Service Provider* within that period of its approval or refusal to approve the amendment, the amendment is, at the end of that period, conclusively presumed to have been unconditionally approved.
- (g) A NSW Distribution Network Service Provider must maintain a current copy of its Cost Allocation Method on its website.



## Provisions applicable to the ACT Distribution Network Service Provider

### 6.15.7 Cost Allocation Principles (ACT)

The following principles constitute the Cost Allocation Principles for the ACT Distribution Network Service Provider:

- (1) the detailed principles and policies used by the ACT Distribution Network Service Provider to allocate costs between different categories of *distribution services* must be described in sufficient detail to enable the *AER* to replicate reported outcomes through the application of those principles and policies;
- (2) the allocation of costs must be determined according to the substance of a transaction or event rather than its legal form;
- (3) only the following costs may be allocated to a particular category of *distribution services*:
  - (i) costs which are directly attributable to the provision of those services; and
  - (ii) costs which are not directly attributable to the provision of those services but which are incurred in providing those services, in which case such costs must be allocated to the provision of those services using an appropriate allocator which should:
    - (A) except to the extent the cost is immaterial or a causal based method of allocation cannot be established without undue cost and effort, be causation based; and
    - (B) to the extent the cost is immaterial or a causal based method of allocation cannot be established without undue cost and effort, be an allocator that accords with a well accepted cost allocation method;
- (4) any cost allocation method which is used, the reasons for using that method and the numeric quantity (if any) of the chosen allocator must be clearly described;
- (5) the same cost must not be allocated more than once;
- (6) the principles, policies and approach used to allocate costs must be consistent with the Distribution Ring-Fencing Guidelines;
- (7) costs which have been allocated to a particular service cannot be reallocated to another service during the course of a *regulatory control period*.

### 6.15.8 Cost Allocation Method (ACT)

- (a) The ACT Distribution Network Service Provider must submit to the *AER* for its approval a document setting out its proposed Cost Allocation Method

for the regulatory control period 2009-2014 within 1 month after the commencement date.

- (b) The Cost Allocation Method proposed by the ACT Distribution Network Service Provider must:
  - (1) be prepared using, as far as practicable, the same cost allocation method as it last used when preparing its regulatory accounts for submission to the ICRC; and
  - (2) subject to subparagraph (1), be consistent with the Cost Allocation Principles.
- (c) The *AER* may approve or refuse to approve the Cost Allocation Method submitted under paragraph (a), but must approve it if the *AER* is satisfied that it:
  - (1) has been prepared, as far as practicable, using the cost allocation method the ACT Distribution Network Service Provider last used when preparing its regulatory accounts for submission to the ICRC; and
  - (2) subject to subparagraph (1), is consistent with the Cost Allocation Principles.
- (d) The *AER* must notify the ACT Distribution Network Service Provider of its decision to approve or refuse to approve the Cost Allocation Method submitted to it under paragraph (a) within 2 months of its submission, failing which the *AER* will be taken to have approved it.
- (e) As part of giving any approval referred to in paragraph (c), the *AER* may, after consulting with the ACT Distribution Network Service Provider, amend the Cost Allocation Method submitted to it, in which case the Cost Allocation Method as so amended will be taken to be approved by the *AER*.
- (f) The ACT Distribution Network Service Provider may, with the *AER*'s approval, amend its Cost Allocation Method from time to time but:
  - (1) the amendment:
    - (i) may be approved on condition that the provider agree to incorporate into the amendment specified additional changes to the Cost Allocation Method the *AER* reasonably considers necessary or desirable as a result of the amendment as submitted; and
    - (ii) if approved on such a condition, does not take effect unless and until the provider notifies the *AER* of its agreement;
  - (2) if 6 months elapse from the date of the submission of the amendment and the *AER* has not notified the provider within that period of its approval or refusal to approve the amendment, the amendment is, at

the end of that period, conclusively presumed to have been unconditionally approved.

- (g) The ACT Distribution Network Service Provider must maintain a current copy of its Cost Allocation Method on its website.

**Part G \*\*\*\*\***

**Part H Ring-Fencing Arrangements for Distribution Network Service Providers**

**6.17 Distribution Ring-Fencing Guidelines**

**6.17.1 Compliance with Distribution Ring-Fencing Guidelines**

- (a) All *Distribution Network Service Providers* must comply with the *Distribution Ring-Fencing Guidelines* prepared in accordance with clause 6.17.2.
- (b) Any Distribution Ring-Fencing Guidelines prepared by the IPART and in force immediately before the start of the regulatory control period 2009-2014 in relation to the NSW Distribution Network Service Providers are deemed to have been prepared by the *AER* under clause 6.17.2 and are to be complied with by the NSW Distribution Network Service Providers.
- (c) Any Distribution Ring-Fencing Guidelines prepared by the ICRC and in force immediately before the start of the regulatory control period 2009-2014 in relation to the ACT Distribution Network Service Provider are deemed to have been prepared by the *AER* under clause 6.17.2 and are to be complied with by the ACT Distribution Network Service Provider.
- (d) Any waiver granted by the IPART under clause 6.2 of the Distribution Ring-Fencing Guidelines prepared by the IPART in relation to the regulatory control period 2004-2009 and in force at the end of that period is deemed to have been given by the *AER* in relation to the regulatory control period 2009-2014.
- (e) For the purposes of paragraphs (b) and (c), the provisions of the guidelines prepared by the IPART and ICRC respectively and referred to in those paragraphs have effect as if references to the IPART and ICRC respectively were references to the *AER*, and with any other necessary modifications.
- (f) EnergyAustralia must, in respect of the EnergyAustralia transmission support network, comply with the *Distribution Ring-Fencing Guidelines* and the *Transmission Ring-Fencing Guidelines*.
- (g) The guidelines referred to in paragraphs (b) and (c) continue in force during and after the end of the regulatory control period 2009-2014 subject to amendment, revocation or replacement by guidelines made under the new regulatory regime as defined in clause 11.14.2.

## 6.17.2 Development of Distribution Ring-Fencing Guidelines

- (a) Subject to clause 6.17.1, guidelines may be developed by the *AER* for the accounting and functional separation of the provision of *direct control services* by *Distribution Network Service Providers* from the provision of other services by *Distribution Network Service Providers* (the *Distribution Ring-Fencing Guidelines*). The guidelines may vary in application as between different *participating jurisdictions*.

**Note:**

Clause 11.14.5 will, subject to clause 6.17.1, have a bearing on the application of these guidelines in certain cases.

- (b) The *Distribution Ring-Fencing Guidelines* may include, but are not limited to:
- (1) provisions defining the need for and extent of:
    - (i) legal separation of the entity through which a *Distribution Network Service Provider* provides *network services* from any other entity through which it conducts business; and
    - (ii) the establishment and maintenance of consolidated and separate accounts for *standard control services*, *alternative control services* and other services provided by the *Distribution Network Service Provider*; and
    - (iii) allocation of costs between *standard control services*, *alternative control services* and other services provided by the *Distribution Network Service Provider*; and
    - (iv) limitations on the flow of information between the *Distribution Network Service Provider* and any other person; and
    - (v) limitations on the flow of information where there is the potential for a competitive disadvantage between those parts of the *Distribution Network Service Provider's* business which provide *direct control services* and parts of the provider's business which provide any other services; and
  - (2) provisions allowing the *AER* to add to or to waive a *Distribution Network Service Provider's* obligations under the *Distribution Ring-Fencing Guidelines*.
- (c) In developing or amending the *Distribution Ring-Fencing Guidelines* the *AER* must consider, without limitation, the need, so far as practicable, for consistency between the *Distribution Ring-Fencing Guidelines* and the *Transmission Ring-Fencing Guidelines*.
- (d) In developing or amending the *Distribution Ring-Fencing Guidelines*, the *AER* must consult with *participating jurisdictions*, *Registered Participants*, *AEMO* and other *interested parties*, and such consultation must be otherwise

in accordance with the *distribution consultation procedures* in Part G of general Chapter 6.

## **Part I Distribution Pricing Rules**

### **6.18 Distribution Pricing Rules**

#### **6.18.1 Application of this Part**

This Part applies to tariffs and *tariff classes* related to *direct control services*.

#### **6.18.2 Pricing proposals**

(a) A *Distribution Network Service Provider* must:

- (1) submit to the AER, as soon as practicable, and in any case within 15 *business days*, after *publication* of the distribution determination, a *pricing proposal* (the **initial pricing proposal**) for the first *regulatory year* of the *regulatory control period*; and
- (2) submit to the AER, at least 2 months before the commencement of the second and each subsequent *regulatory year* of the *regulatory control period*, a further *pricing proposal* (an **annual pricing proposal**) for the relevant *regulatory year*.

(b) A *pricing proposal* must:

- (1) set out the *tariff classes* that are to apply for the relevant *regulatory year*; and
- (2) set out the proposed tariffs for each *tariff class*; and
- (3) set out, for each proposed tariff, the *charging parameters* and the elements of service to which each *charging parameter* relates; and
- (4) set out, for each *tariff class* related to *standard control services*, the expected weighted average revenue for the relevant *regulatory year* and also for the current *regulatory year*; and
- (5) set out the nature of any variation or adjustment to the tariff that could occur during the course of the *regulatory year* and the basis on which it could occur; and
- (5A) in the case of a NSW Distribution Network Service Provider – set out how Climate Change Fund payments are to be passed on to customers and any adjustments to tariffs resulting from over or under recovery of those amounts in any previous *regulatory year*; and
- (6) set out how *designated pricing proposal charges* are to be passed on to customers and any adjustments to tariffs resulting from over or under recovery of those charges in the previous *regulatory year*; and

(6A) \*\*\*\*

- (7) demonstrate compliance with the *Rules* and any applicable distribution determination; and
  - (8) describe the nature and extent of change from the previous *regulatory year* and demonstrate that the changes comply with the *Rules* and any applicable distribution determination.
- (b1) In its first *pricing proposal* after 1 July 2010 the NSW Distribution Network Service Provider must detail how the provider proposes to carry out adjustments to Climate Change Fund payments for the purposes of clause 6.18.2(b)(5A) and report to the *AER* on the recovery process under clause 6.18.7B(a) to (c).
- (c) The *AER* must on receipt of a *pricing proposal* from a *Distribution Network Service Provider* publish the proposal.

### 6.18.3 Tariff classes

- (a) A *pricing proposal* must define the *tariff classes* into which customers for *direct control services* are divided.
- (b) Each customer for *direct control services* must be a member of 1 or more *tariff classes*.
- (c) Separate *tariff classes* must be constituted for customers to whom *standard control services* are supplied and customers to whom *alternative control services* are supplied (but a customer for both *standard control services* and *alternative control services* may be a member of 2 or more *tariff classes*).
- (d) A *tariff class* must be constituted with regard to:
  - (1) the need to group customers together on an economically efficient basis; and
  - (2) the need to avoid unnecessary transaction costs.

### 6.18.4 Principles governing assignment or re-assignment of customers to tariff classes and assessment and review of basis of charging

- (a) In formulating provisions of a distribution determination governing the assignment of customers to *tariff classes* or the re-assignment of customers from one *tariff class* to another, the *AER* must have regard to the following principles:
  - (1) customers should be assigned to *tariff classes* on the basis of one or more of the following factors:
    - (i) the nature and extent of their usage;
    - (ii) the nature of their *connection* to the *network*;

- (iii) whether remotely-read interval metering or other similar metering technology has been installed at the customer's premises as a result of a *regulatory obligation or requirement*;
- (2) customers with a similar *connection* and usage profile should be treated on an equal basis;
- (3) however, customers with micro-generation facilities should be treated no less favourably than customers without such facilities but with a similar load profile;
- (4) a *Distribution Network Service Provider's* decision to assign a customer to a particular *tariff class*, or to re-assign a customer from one *tariff class* to another should be subject to an effective system of assessment and review.

**Note:**

If (for example) a customer is assigned (or reassigned) to a *tariff class* on the basis of the customer's actual or assumed *maximum demand*, the system of assessment and review should allow for the reassignment of a customer who demonstrates a reduction or increase in *maximum demand* to a *tariff class* that is more appropriate to the customer's *load* profile.

- (b) If the *charging parameters* for a particular tariff result in a basis of charge that varies according to the usage or load profile of the customer, a distribution determination must contain provisions for an effective system of assessment and review of the basis on which a customer is charged.

### 6.18.5 Pricing principles

- (a) For each *tariff class*, the revenue expected to be recovered should lie on or between:
  - (1) an upper bound representing the stand alone cost of serving the customers who belong to that class; and
  - (2) a lower bound representing the avoidable cost of not serving those customers.
- (b) A tariff, and if it consists of 2 or more *charging parameters*, each *charging parameter* for a *tariff class*:
  - (1) must take into account the long run marginal cost for the service or, in the case of a *charging parameter*, for the element of the service to which the *charging parameter* relates; and
  - (2) must be determined having regard to:
    - (i) transaction costs associated with the tariff or each *charging parameter*; and
    - (ii) whether customers of the relevant *tariff class* are able or likely to respond to price signals.

- (c) If, however, as a result of the operation of paragraph (b), the *Distribution Network Service Provider* may not recover the expected revenue, the provider must adjust its tariffs so as to ensure recovery of expected revenue with minimum distortion to efficient patterns of consumption.

#### 6.18.6 Side constraints on tariffs for standard control services

- (a) This clause applies only to *tariff classes* related to the provision of *standard control services*.
- (b) The expected weighted average revenue to be raised from a *tariff class* for a particular *regulatory year* of a *regulatory control period* must not exceed the corresponding expected weighted average revenue for the preceding *regulatory year* by more than the permissible percentage.

- (c) The permissible percentage is the greater of the following:

- (1) the CPI-X limitation on any increase in the *Distribution Network Service Provider's* expected weighted average revenue between the two *regulatory years* plus 2%;

**Note:**

The calculation is of the form  $(1 + \text{CPI})(1 - X)(1 + 2\%)$

- (2) CPI plus 2%.

**Note:**

The calculation is of the form  $(1 + \text{CPI})(1 + 2\%)$

- (d) In deciding whether the permissible percentage has been exceeded in a particular *regulatory year*, the following are to be disregarded:

- (1) the recovery of revenue to accommodate a variation to the distribution determination under rule 6.6 or 6.13;
  - (2) the recovery of revenue to accommodate pass through of *designated pricing proposal charges* to customers.

- (3) \*\*\*\*

- (3A) the recovery of revenue to accommodate pass through of Climate Change Fund payments.

- (e) This clause does not, however, limit the extent a tariff for customers with remotely-read interval metering or other similar metering technology may vary according to the time or other circumstances of the customer's usage.



### **6.18.7 Recovery of designated pricing proposal charges**

- (a) A *pricing proposal* must provide for tariffs designed to pass on to customers the *designated pricing proposal charges* to be incurred by the *Distribution Network Service Provider*.
- (b) The amount to be passed on to customers for a particular *regulatory year* must not exceed the estimated amount of the *designated pricing proposal charges* adjusted for over or under recovery in accordance with paragraph (c).
- (c) The over and under recovery amount must be calculated in a way that:
  - (1) subject to subparagraphs (2) and (3) below, is consistent with the method determined by the *AER* in the relevant distribution determination for the *Distribution Network Service Provider*;
  - (2) ensures a *Distribution Network Service Provider* is able to recover from customers no more and no less than the *designated pricing proposal charges* it incurs; and
  - (3) adjusts for an appropriate cost of capital that is consistent with the rate of return used in the relevant distribution determination for the relevant *regulatory year*.
- (d) Notwithstanding anything else in this clause 6.18.7, a *Distribution Network Service Provider* may not recover charges under this clause to the extent these are:
  - (1) recovered through the *Distribution Network Service Provider's annual revenue requirement*;
  - (2) recovered under modified clauses 6.18.7A(a) to (c) or clause 6.18.7B; or
  - (3) recovered from another *Distribution Network Service Provider*.

### **6.18.7A \*\*\*\***

### **6.18.7B Recovery of Climate Change Fund payments**

- (a) In the case of a NSW Distribution Network Service Provider, a *pricing proposal* must provide for tariffs designed to pass on to customers Climate Change Fund payments.
- (b) The amount to be passed on to customers for a particular *regulatory year* must not exceed the estimated amount of Climate Change Fund payments for the relevant *regulatory year* adjusted for over or under recovery in any previous *regulatory year*.
- (c) The extent of the over or under recovery is the difference between:

- (1) the actual amount of the Climate Change Fund payments in a previous *regulatory year*; and
- (2) the amount passed on to customers in respect of Climate Change Fund payments in that previous *regulatory year*.

### 6.18.7C Recovery of jurisdictional scheme amounts

#### **Electing to recover jurisdictional scheme amounts under pricing proposal process**

- (a) A *Distribution Network Service Provider* may by written notice to the AER at least 20 *business days* before the date that a *pricing proposal* is required to be submitted under clause 6.18.2(a)(2) in respect of a *regulatory year*, elect to submit a *pricing proposal* for that *regulatory year* that complies with modified clause 6.18.2(b)(6A) and (6B) and modified clauses 6.18.7A(a) to (c).
- (b) An election under paragraph (a) is valid if:
  - (1) the election is made in relation to the second or subsequent *regulatory year* of the *regulatory control period*;
  - (2) the election is made in respect of each applicable jurisdictional scheme under which the *Distribution Network Service Provider* has *jurisdictional scheme obligations*;
  - (3) the *Distribution Network Service Provider* has complied with paragraphs (g) to (i) and the AER has made a decision or is taken to have made a decision under clause 6.6.1A(e) or (f) (whichever is applicable) of general Chapter 6 in respect of each applicable jurisdictional scheme under which the *Distribution Network Service Provider* has *jurisdictional scheme obligations*; and
  - (4) if and to the extent that any forecast or estimate of amounts payable under applicable jurisdictional schemes has been included as forecast operating expenditure in the *Distribution Network Service Provider's* distribution determination for the *regulatory control period*, the AER has agreed to a revocation and substitution of the distribution determination under paragraphs (j) to (m).
- (c) Not later than 10 *business days* after receiving a notice under paragraph (a), the AER must notify the *Distribution Network Service Provider*:
  - (1) whether it accepts the election made under paragraph (a); and
  - (2) if it does not accept the election under paragraph (a), the reasons for that decision.
- (d) If the AER has not notified the *Distribution Network Service Provider* under paragraph (c) within 10 *business days* of receiving a notice under paragraph (a), the AER is taken to have accepted the election.

- (e) The *AER* must accept an election under paragraph (a) if it is valid under paragraph (b).
- (f) If the *AER* accepts a *Distribution Network Service Provider's* election under paragraph (c) or is taken to be accepted the election under paragraph (d) (whichever is applicable), the *Distribution Network Service Provider* must, in addition to its obligations under this Chapter 6, comply with:
  - (1) modified clause 6.18.2(b)(6A) and (6B) and modified clauses 6.18.7A(a) to (c) in respect of the *pricing proposal* for each *regulatory year* of the *regulatory control period* that commences after the acceptance of an election under paragraph (c) or (d) (whichever is applicable); and
  - (2) clause 6.18.6(d)(3) of general Chapter 6 in respect of each *regulatory year* of the *regulatory control period* in relation to which an election is accepted under paragraph (c) or (d) (whichever is applicable).

### **Reporting on jurisdictional schemes**

- (g) If during the *regulatory control period* a *Distribution Network Service Provider* is or becomes subject to *jurisdictional scheme obligations* under an *applicable jurisdictional scheme*, the *Distribution Network Service Provider* may request the *AER* to determine how it is to report to the *AER* on its recovery of *jurisdictional scheme amounts* under that scheme for each *regulatory year* of the *regulatory control period* and on the adjustments to be made to subsequent *pricing proposals* to account for over or under recovery of those amounts.
- (h) To make a request under paragraph (g), a *Distribution Network Service Provider* must submit to the *AER* a written statement which specifies:
  - (1) the name of the relevant applicable jurisdictional scheme;
  - (2) the date the *Distribution Network Service Provider* became subject to *jurisdictional scheme obligations*; and
  - (3) details of how the *Distribution Network Service Provider* proposes to:
    - (i) estimate the *jurisdictional scheme amounts* for the relevant applicable jurisdictional scheme for the purposes of modified clause 6.18.7A(b);
    - (ii) carry out any adjustments to *jurisdictional scheme amounts* for the relevant *jurisdictional scheme* for the purposes of modified clause 6.18.7A(b); and
    - (iii) report to the *AER* on the recovery process under modified clauses 6.18.7A(a) to (c).
- (i) If a *Distribution Network Service Provider* makes a request under paragraph (g) and provides a statement under paragraph (h):

- (1) clauses 6.6.1A(c) to (f) of general Chapter 6 apply to the *AER* and *Distribution Network Service Provider* as if references to “a statement under paragraph (b)” in those clauses was a reference to “a statement under clause 6.18.7C(h) of Appendix 1 of Chapter 11”; and
- (2) the *AER* and *Distribution Network Service Provider* are bound to comply with clauses 6.6.1A(c) to (f) of general Chapter 6 in respect of the determination requested under paragraph (g) as if it had been requested under clause 6.6.1A(a) of general Chapter 6 and a statement had been provided in accordance with clause 6.6.1A(b) of general Chapter 6.

**Revocation and substitution of distribution determination for jurisdictional scheme recovery**

- (j) The *AER* may revoke a distribution determination for a *Distribution Network Service Provider* during the *regulatory control period* if:
  - (1) a forecast or estimate of amounts to be paid, credited or reimbursed under one or more applicable jurisdictional schemes has been included in the *Distribution Network Service Provider's* forecast operating expenditure in its distribution determination (as adjusted under clause 6.6.1, if applicable) for the *regulatory control period*; and
  - (2) the *Distribution Network Service Provider* gives the *AER* written notice that it intends to make an election under paragraph (a).
- (k) If the *AER* revokes a distribution determination under paragraph (j), the *AER* must make a new distribution determination in substitution for the revoked determination to apply for the remainder of the *regulatory control period* for which the revoked determination was to apply.
- (l) If the *AER* revokes a distribution determination under paragraph (j), the substituted determination must only vary from the revoked determination to the extent necessary to correct for the amounts referred to in subparagraph (j)(1).
- (m) The *AER* may only revoke and substitute a distribution determination under paragraphs (j) and (k), if it has first consulted with the relevant *Distribution Network Service Provider* and such other persons as it considers appropriate.

**6.18.8 Approval of pricing proposal**

- (a) The *AER* must approve a *pricing proposal* if the *AER* is satisfied that:
  - (1) the proposal complies with this Part, any relevant clauses in Chapter 11 of the *Rules* and any applicable distribution determination; and
  - (2) all forecasts associated with the proposal are reasonable.
- (b) If the *AER* determines that a *pricing proposal* is deficient:

- (1) the *AER* may require the *Distribution Network Service Provider*, within 10 *business days* after receiving notice of the determination, to re-submit the proposal with the amendments necessary to correct the deficiencies identified in the determination and (unless the *AER* permits further amendment) no further amendment; or
  - (2) the *AER* may itself make the amendments necessary to correct the deficiencies.
- (c) If the service provider fails to comply with a requirement under paragraph (b), or the resubmitted proposal fails to correct the deficiencies in the former proposal, the *AER* may itself amend the proposal to bring it into conformity with the requirements of this Part and any applicable distribution determination.
- (d) An *approved pricing proposal* takes effect:
  - (1) in the case of an initial *pricing proposal* – at the commencement of the first *regulatory year* of the *regulatory control period* for which the distribution determination is made; and
  - (2) in the case of an annual *pricing proposal* – at the commencement of the *regulatory year* to which the proposal relates.

**Note:**

The operation of this paragraph may, in some instances, be displaced or modified by clause 6.11.3(b).

#### **6.18.9 Publication of information about tariffs and tariff classes**

- (a) A *Distribution Network Service Provider* must maintain on its website:
  - (1) a statement of the provider's *tariff classes* and the tariffs applicable to each class; and
  - (2) for each tariff – the *charging parameters* and the elements of the service to which each *charging parameter* relates; and
  - (3) a statement of expected price trends (to be updated for each *regulatory year*) giving an indication of how the *Distribution Network Service Provider* expects prices to change over the *regulatory control period* and the reasons for the expected changes.
- (b) The information for a particular *regulatory year* must, if practicable, be posted on the website 20 *business days* before the commencement of the relevant *regulatory year* and, if that is not practicable, as soon as practicable thereafter.

## **6.19. Data Required for Distribution Service Pricing**

### **6.19.1 Forecast use of networks by Distribution Customers and Embedded Generators**

Any information required by *Distribution Network Service Providers* must be provided by *Service Applicants* as part of the *connection* and access requirements set out in Chapter 5.

### **6.19.2 Confidentiality of distribution network pricing information**

- (a) Subject to the Law and the *Rules*, all information about a *Service Applicant* or *Distribution Network User* used by *Distribution Network Service Providers* for the purposes of *distribution service* pricing is confidential information.
- (b) No requirement in this Chapter 6 to publish information about a *tariff class* is to be construed as requiring publication of information about an individual customer.

## **Part J Billing and Settlements**

### **6.20 Billing and Settlements Process**

This clause describes the manner in which *Distribution Customers* and *Embedded Generators* are billed by *Distribution Network Service Providers* for *distribution services* and how payments for *distribution services* are settled.

#### **6.20.1 Billing for distribution services**

- (a) A *Distribution Network Service Provider* must bill *Distribution Network Users* for *distribution services* as follows:

- (1) *Embedded Generators*:

- (i) by applying the *entry charge* as a fixed annual charge to each *Embedded Generator*; and
  - (ii) by applying any other charge the *Distribution Network Service Provider* makes consistently with these *Rules* and the applicable distribution determination.

- (2) *Distribution Customers*:

The charges to *Distribution Customers* must be determined according to use of the *distribution network* as determined in accordance with a *metrology procedure* or, in the absence of a *metrology procedure* allowing such a determination to be made, by *meter* or by agreement between the *Distribution Customer* and the *Distribution Network Service Provider* by applying one or more of the following measures:

- (i) demand-based prices to the *Distribution Customer's* metered or agreed half-hourly demand;
  - (ii) energy-based prices to the *Distribution Customer's* metered or agreed energy;
  - (iii) the *Distribution Customer* charge determined under this clause as a fixed periodic charge to each *Distribution Customer*;
  - (iv) a fixed periodic charge, a prepayment or other charge determined by agreement with the *Distribution Customer*;
  - (v) any other measure the *Distribution Network Service Provider* is authorised to apply by the applicable distribution determination.
- (b) Subject to paragraph (c), where a *Distribution Customer* (other than a *Market Customer*) incurs *distribution service* charges, the *Distribution Network Service Provider* must bill the *Market Customer* from whom the *Distribution Customer* purchases electricity directly or indirectly for such *distribution services* in accordance with paragraph (a)(2).
- (c) If a *Distribution Customer* and the *Market Customer* from whom it purchases electricity agree, the *Distribution Network Service Provider* may bill the *Distribution Customer* directly for *distribution services* used by that *Distribution Customer* in accordance with paragraph (a)(2).
- (d) *Distribution Network Service Providers* must:
  - (1) calculate *transmission service* charges and *distribution service* charges for all connection points in their *distribution network*; and
  - (2) pay to *Transmission Network Service Providers* the *transmission service* charges incurred in respect of use of a *transmission network* at each *connection point* on the relevant *transmission network*.
- (e) Charges for *distribution services* based on metered kW, kWh, kVA, or kVAh for:
  - (1) *Embedded Generators* that are *Market Generators*; and
  - (2) *Market Customer*; and
  - (3) *Second-Tier Customers*;must be calculated by the *Distribution Network Service Provider* from:
  - (1) *settlements ready data* obtained from AEMO's *metering database*, for those *Embedded Generators*, *Market Customers* and *Second-Tier Customers* with *connection points* that have a type 1, 2, 3 or 4 *metering installation*; and

- (2) *metering data*, in accordance with a *metrology procedure* that allows the *Distribution Network Service Provider* to use *energy data* for this purpose, or otherwise *settlements ready data* obtained from *AEMO's metering database*, for those *Embedded Generators*, *Market Customers* and *Second-Tier Customers* with *connection points* that have a type 5, 6 or 7 *metering installation*.
- (f) Charges for *distribution services* based on metered kW, kWh, kVA or kVAh for:
  - (1) *Embedded Generators* that are not *Market Generators*; and
  - (2) *Non-Registered Customers*; and
  - (3) *franchise customers*,must be calculated by the *Distribution Network Service Provider* using data that is consistent with the *metering data* used by the relevant *Local Retailer* in determining *energy settlements*.
- (g) The *Distribution Network Service Provider* may bill the relevant *Local Retailer* for *distribution services* used by *Non-Registered Customers* and *franchise customers*.
- (h) Where the billing for a *Distribution Customer* for a particular *financial year* is based on quantities which are undefined until after the commencement of the *financial year*, charges must be estimated from the previous year's billing quantities with a reconciliation to be made when the actual billing quantities are known.
- (i) Where the previous year's billing quantities are unavailable or no longer suitable, nominated quantities may be used as agreed between the parties.

#### **6.20.2 Minimum information to be provided in distribution network service bills**

- (a) The following is the minimum information that must be provided with a bill for a *network coupling point* issued by a *Distribution Network Service Provider* directly to a *Registered Participant*:
  - (1) the *network coupling point* identifier; and
  - (2) the dates on which the billing period starts and ends; and
  - (3) the identifier of the *distribution service* price from which the *network coupling point* charges are calculated; and
  - (4) measured quantities, billed quantities, prices and amounts charged for each component of the total *distribution service* account.
- (b) In addition to the minimum information requirements in paragraph (a), a bill for a *network coupling point* issued by a *Distribution Network Service*



*Provider* directly to another *Distribution Network Service Provider* must separately identify the component of *designated pricing proposal services*, if any, to which each amount charged in the bill relates.

### **6.20.3 Settlement between Distribution Network Service Providers**

The billing and settlement process specified in this clause must be applied to all *Distribution Customers* including other *Distribution Network Service Providers*.

### **6.20.4 Obligation to pay**

A *Distribution Network User* must pay *distribution service* charges properly charged to it and billed in accordance with this clause by the due date specified in the bill.

## **Part K Prudential requirements, capital contributions and prepayments**

### **6.21 Distribution Network Service Provider Prudential Requirements**

This clause sets out the arrangements by which *Distribution Network Service Providers* may minimise financial risks associated with investment in *network assets* and provides for adoption of cost-reflective payment options in conjunction with the use of average distribution prices. The clause also prevents *Distribution Network Service Providers* from receiving income twice for the same assets through prudential requirements and *distribution service* prices.

#### **6.21.1 Prudential requirements for distribution network service**

- (a) A *Distribution Network Service Provider* may require an *Embedded Generator* or *Distribution Customer* that requires a new *connection* or a modification in service for an existing *connection* to establish prudential requirements for *connection service* and/or *distribution use of system service*.
- (b) Prudential requirements for *connection service* and/or *distribution use of system service* are a matter for negotiation between the *Distribution Network Service Provider* and the *Embedded Generator* or *Distribution Customer* and the terms agreed must be set out in the *connection agreement* between the *Distribution Network Service Provider* and the *Embedded Generator* or *Distribution Customer*.
- (c) The *connection agreement* may include one or more of the following provisions:
  - (1) the conditions under which and the time frame within which other *Distribution Network Users* who use that part of the *distribution network* contribute to refunding all or part of the payments;

- (2) the conditions under which financial arrangements may be terminated; and
  - (3) the conditions applying in the event of default by the *Distribution Customer* or *Embedded Generator*.
- (d) The prudential requirements may incorporate, but are not limited to, one or more of the following arrangements:
  - (1) financial capital contributions;
  - (2) non-cash contributions;
  - (3) *distribution service* charge prepayments;
  - (4) guaranteed minimum *distribution service* charges for an agreed period;
  - (5) guaranteed minimum *distribution service* quantities for an agreed period;
  - (6) provision for financial guarantees for *distribution service* charges.

#### **6.21.2 Capital contributions, prepayments and financial guarantees**

Despite any other provision in this Chapter, in relation to capital contributions, prepayments and financial guarantees:

- (1) the *Distribution Network Service Provider* is not entitled to recover, under a mechanism for the economic regulation of *direct control services*, any component representing asset related costs for assets provided by *Distribution Network Users*; and
- (2) the *Distribution Network Service Provider* may receive a capital contribution, prepayment and/or financial guarantee up to the provider's future revenue related to the provision of *direct control services* for any new assets installed as part of a new *connection* or modification to an existing *connection*, including any *augmentation* to the *distribution network*; and
- (3) where assets have been the subject of a contribution or prepayment, the *Distribution Network Service Provider* must amend the provider's revenue related to the provision of *direct control services*.

#### **6.21.3 Treatment of past prepayments and capital contributions**

- (a) Payments made by *Distribution Customers* and *Embedded Generators* for *distribution service* prior to 13 December 1998 must be made in accordance with any contractual arrangements with the relevant *Distribution Network Service Providers* applicable at that time.
- (b) Where contractual arrangements referred to in clause 6.22.2(a) are not in place, past *distribution service* prepayments or capital contributions may be

incorporated in the capital structure of the *Distribution Network Service Provider's* business.

- (c) The *AER* may intervene in and resolve any dispute under this clause which cannot be resolved between the relevant *Distribution Network Service Provider* and *Distribution Customer* or *Embedded Generator*.

#### **6.21.4 Application of IPART and ICRC guidelines regarding capital contribution charges**

- (a) Capital contribution charges by the NSW Distribution Network Service Providers in respect of the regulatory control period 2009-2014 are to be determined in accordance with Determination No 1 2002 made by the IPART under section 11(3) of the *Independent Pricing and Regulatory Act 1992* (NSW) in 2002.
- (b) Capital contribution charges by the ACT Distribution Network Service Provider in respect of the regulatory control period 2009-2014 are to be determined in accordance with the Electricity Network Capital Contributions Code made by the ICRC in 2001.

### **Part L Dispute resolution**

#### **6.22 Dispute Resolution**

##### **6.22.1 Dispute Resolution by the AER**

- (a) A dispute between a *Distribution Network Service Provider* and a *Service Applicant* as to the *terms and conditions of access* to a *direct control service* or to a *negotiated distribution service* is an access dispute for the purposes of Part 10 of the Law.
- (b) A dispute between a *Distribution Network Service Provider* and a *Service Applicant* about *access charges* is an access dispute for the purposes of Part 10 of the Law.
- (c) A dispute between a *Distribution Network Service Provider* and a *Connection Applicant* about matters referred to in clause 5.5(f) or clause 5.5(h) is an access dispute for the purposes of Part 10 of the Law.

##### **6.22.2 Determination of dispute**

- (a) In determining an access dispute about *terms and conditions of access* to a *direct control service* (other than a negotiable component), the *AER* must apply:
  - (1) in relation to price, the *Distribution Network Service Provider's* *approved pricing proposal* or (in the case of an EnergyAustralia prescribed (transmission) standard control service) EnergyAustralia's approved pricing methodology, as the case requires; and

- (2) in relation to other terms and conditions, Chapters 4, 5, this Chapter 6 and Chapter 7 of the *Rules* and any other *applicable regulatory instrument*; and
  - (3) in relation to all *terms and conditions of access* (including price) the decisions of *AEMO* or the *AER* where those decisions relate to those terms and conditions and are made under Chapters 4, 5, this Chapter 6 and Chapter 7 of the *Rules*.
- (a1) In determining an access dispute about *terms and conditions of access* to a negotiable component of a *direct control service*, the *AER* must apply:
- (1) in relation to price (including *access charges*), the negotiable component criteria that are applicable to the dispute in accordance with the relevant distribution determination; and
  - (2) in relation to other terms and conditions, the negotiable component criteria that are applicable to the dispute and Chapters 4, 5, this Chapter 6 and Chapter 7 of the *Rules*; and
  - (3) in relation to all *terms and conditions of access* (including price) the decisions of *AEMO* or the *AER* where those decisions relate to those terms and conditions and are made under Chapters 4, 5, this Chapter 6 and Chapter 7 of the *Rules*;
- and must have regard:
- (4) to the relevant *negotiating framework* prepared by the *Distribution Network Service Provider* and approved by the *AER*.
- (b) In determining an access dispute about the *terms and conditions of access* to a *direct control service* (including a negotiable component), the *AER* may:
- (1) have regard to other matters the *AER* considers relevant; and
  - (2) hear evidence or receive submissions from *AEMO* about *power system security* and from *Distribution Network Users* who may be adversely affected.

**Note:**

Section 130 of the Law requires the *AER*, in making an access determination, to give effect to a network revenue or pricing determination applicable to the services that are the subject of the dispute even though the determination may not have been in force when the dispute arose.

- (c) In determining an access dispute about *terms and conditions of access* to a *negotiated distribution service*, the *AER* must apply:
- (1) in relation to price (including *access charges*), the *Negotiated Distribution Service Criteria* that are applicable to the dispute in accordance with the relevant distribution determination; and

- (2) in relation to other terms and conditions, the *Negotiated Distribution Service Criteria* that are applicable to the dispute and Chapters 4, 5, this Chapter 6 and Chapter 7 of the *Rules*; and
- (3) in relation to all *terms and conditions of access* (including price) the decisions of *AEMO* or the *AER* where those decisions relate to those terms and conditions and are made under Chapters 4, 5, this Chapter 6 and Chapter 7 of the *Rules*;

and must have regard:

- (4) to the relevant *negotiating framework* prepared by the *Distribution Network Service Provider* and approved by the *AER*.
- (d) In determining an access dispute about the *terms and conditions of access* to a *negotiated distribution service*, the *AER* may:
- (1) have regard to other matters the *AER* considers relevant; and
  - (2) hear evidence or receive submissions from *AEMO* and *Distribution Network Users* notified and consulted under the *Distribution Network Service Provider's negotiating framework*.
- (e) In determining an access dispute about *access charges*, or involving *access charges*, the *AER* must give effect to the following principle:

*Access charges* should be based on the costs reasonably incurred by the *Distribution Network Service Provider* in providing *distribution network user access* and, where they consist of compensation referred to in clause 5.5(f)(4)(ii) and (iii), on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs.

### 6.22.3 Termination of access dispute without access determination

- (a) If the *AER* considers that an access dispute could be effectively resolved by some means other than an access determination, the *AER* may give the parties to the dispute notice of the alternative means of resolving the dispute.
- (b) The giving of such a notice is a specified dispute termination circumstance for the purposes of section 131(3) of the Law.

**Note:**

It follows that the *AER* may exercise its power to terminate the dispute without making an access determination (See section 131(1)(d) of the Law).

## Part M Separate disclosure of transmission and distribution charges

### 6.23 Separate disclosure of transmission and distribution charges

(a) *A Distribution Customer:*

- (1) with a *load* greater than 10MW or 40GWh per annum; or
- (2) with *metering* equipment capable of capturing relevant *transmission* and *distribution system* usage data,

may make a request (a **TUOS/DUOS disclosure request**) to a *Distribution Network Service Provider* to provide the *Distribution Customer* with a statement (a **TUOS/DUOS disclosure statement**) identifying the separate components of the *designated pricing proposal charges* and *distribution use of system* charges comprised in the charges for electricity supplied to the *Distribution Customer's connection points*.

- (b) Within 10 *business days* of receipt of a TUOS/DUOS disclosure request, a *Distribution Network Service Provider* must notify the *Distribution Customer* of the estimated charge (including details of how the charge is calculated) for providing the TUOS/DUOS disclosure statement. The charge must be no greater than the reasonable costs directly incurred by the *Distribution Network Service Provider* in preparing the statement for the *Distribution Customer*.
- (c) If the *Distribution Customer* advises the *Distribution Network Service Provider* within 20 *business days* of receipt of the notice referred to in paragraph (b) that it still requires the requested TUOS/DUOS disclosure statement, the *Distribution Network Service Provider* must prepare the statement and provide it to the *Distribution Customer* within 20 *business days* of being so advised. The TUOS/DUOS disclosure statement must include detailed information on the method used to determine the *distribution use of system* charges and the allocation of the *designated pricing proposal charges* to the *Distribution Customer* for electricity supplied to its *connection points*. The information must be sufficient to allow the *Distribution Customer* to assess the impact on its *network* charges of a change in its *network* use.
- (d) The TUOS/DUOS disclosure statement must also separately identify the amounts that have been allocated to the *Distribution Customer's connection points* under Part J of Chapter 6A in respect of each of the *categories of prescribed transmission services*, where the *Distribution Customer* requests this information.
- (e) Where the *Distribution Customer* requests the information referred to in paragraph (d), the *Distribution Network Service Provider* must separately identify the component of the charge notified under paragraph (b) that relates to the provision of the additional information.

- (f) Each *Distribution Network Service Provider* must publish information annually disclosing the *designated pricing proposal charges* and *distribution use of system charges* for each of the classes of *Distribution Customers* identified for this purpose by the *Distribution Network Service Provider*, or as required by the AER.

## Schedule 6.1 Contents of building block proposals

### S6.1.1 Information and matters relating to capital expenditure

A *building block proposal* must contain at least the following information and matters relating to capital expenditure:

- (1) a forecast of the required capital expenditure that complies with the requirements of clause 6.5.7 of the *Rules* and identifies the forecast capital expenditure by reference to well accepted categories such as:
  - (i) asset class (eg. *distribution lines, substations* etc); or
  - (ii) category driver (eg. *regulatory obligation or requirement, replacement, reliability, net market benefit, business support* etc),and identifies, in respect of proposed material assets:
  - (iii) the location of the proposed asset; and
  - (iv) the anticipated or known cost of the proposed asset; and
  - (v) the categories of *distribution services* which are to be provided by the proposed asset;
- (2) the method used for developing the capital expenditure forecast;
- (3) the forecasts of load growth relied upon to derive the capital expenditure forecasts and the method used for developing those forecasts of load growth;
- (4) the key assumptions that underlie the capital expenditure forecast;
- (5) a certification of the reasonableness of the key assumptions by the directors of the *Distribution Network Service Provider*;
- (6) capital expenditure for each of the past *regulatory years* of the previous and current *regulatory control period*, and the expected capital expenditure for each of the last two *regulatory years* of the current *regulatory control period*, categorised in the same way as for the capital expenditure forecast;
- (7) an explanation of any significant variations in the forecast capital expenditure from historical capital expenditure.

### **S6.1.2 Information and matters relating to operating expenditure**

A *building block proposal* must contain at least the following information and matters relating to operating expenditure:

- (1) a forecast of the required operating expenditure that complies with the requirements of clause 6.5.6 of the *Rules* and identifies the forecast operating expenditure by reference to well accepted categories such as:
  - (i) particular programs; or
  - (ii) types of operating expenditure (eg. maintenance, payroll, materials etc),and identifies in respect of each such category:
  - (iii) to what extent that forecast expenditure is on costs that are fixed and to what extent it is on costs that are variable; and
  - (iv) the categories of *distribution services* to which that forecast expenditure relates;
- (2) the method used for developing the operating expenditure forecast;
- (3) the forecasts of key variables relied upon to derive the operating expenditure forecast and the method used for developing those forecasts of key variables;
- (4) the method used for determining the cost associated with planned maintenance programs designed to improve the performance of the relevant *distribution system* for the purposes of any *service target performance incentive scheme* that is to apply to the *Distribution Network Service Provider* in respect of the relevant *regulatory control period*;
- (5) the key assumptions that underlie the operating expenditure forecast;
- (6) a certification of the reasonableness of the key assumptions by the directors of the *Distribution Network Service Provider*;
- (7) operating expenditure for each of the past *regulatory years* of the previous and current *regulatory control period*, and the expected operating expenditure for each of the last two *regulatory years* of the current *regulatory control period*, categorised in the same way as for the operating expenditure forecast;
- (8) an explanation of any significant variations in the forecast operating expenditure from historical operating expenditure.

### **S6.1.3 Additional information and matters**

A *building block proposal* must contain at least the following additional information and matters:



- (1) an identification and explanation of any significant interactions between the forecast capital expenditure and forecast operating expenditure programs;
- (2) a proposed pass through clause with a proposal as to the events that should be defined as *pass through events*;
- (3) a description, including relevant explanatory material, of how the *Distribution Network Service Provider* proposes the *efficiency benefit sharing scheme* should apply for the relevant *regulatory control period*;
- (4) a description, including relevant explanatory material, of how the *Distribution Network Service Provider* proposes the *service target performance incentive scheme* should apply for the relevant *regulatory control period*;
- (5) a description, including relevant explanatory material, of how the *Distribution Network Service Provider* proposes the *demand management incentive scheme* (if applicable) should apply for the relevant *regulatory control period*;
- (6) the provider's calculation of revenues or prices for the purposes of the control mechanism proposed by the provider together with:
  - (i) details of all amounts, values and inputs (including X factors) relevant to the calculation; and
  - (ii) an explanation of the calculation and the amounts, values and inputs involved in the calculation; and
  - (iii) a demonstration that the calculation and the amounts, values and inputs on which it is based comply with relevant requirements of the Law and the *Rules*;
- (7) the provider's calculation of the regulatory asset base for the relevant *distribution system* for each *regulatory year* of the relevant *regulatory control period* using the *roll forward model* referred to in clause 6.5.1 of transitional Chapter 6, together with:
  - (i) details of all amounts, values and other inputs used by the provider for that purpose; and
  - (ii) a demonstration that any such amounts, values and other inputs comply with the relevant requirements of Part C of transitional Chapter 6; and
  - (iii) an explanation of the calculation of the regulatory asset base for each *regulatory year* of the relevant *regulatory control period* and of the amounts, values and inputs referred to in subparagraph (i);
- (8) the commencement and length of the period nominated by the *Distribution Network Service Provider* for the purposes of clause 6.5.2(c)(2) of transitional Chapter 6;

- (9) the provider's calculation of the proposed rate of return;
- (10) the *post-tax revenue model* completed to show its application to the *Distribution Network Service Provider* and the completed *roll-forward model*;
- (11) the provider's estimate of the cost of corporate income tax for each *regulatory year* of the *regulatory control period*;
- (12) the depreciation schedules nominated by the *Distribution Network Service Provider* for the purposes of clause 6.5.5 of transitional Chapter 6, which categorise the relevant assets for these purposes by reference to well accepted categories such as:
  - (i) asset class (eg *distribution lines* and *substations*); or
  - (ii) category driver (eg *regulatory obligation or requirement*, replacement, *reliability*, net market benefit, and business support),together with:
  - (iii) details of all amounts, values and other inputs used by the provider to compile those depreciation schedules; and
  - (iv) a demonstration that those depreciation schedules conform with the requirements set out in clause 6.5.5(b) of transitional Chapter 6; and
  - (v) an explanation of the calculation of the amounts, values and inputs referred to in subparagraph (iii);
- (13) \*\*\*\*\*

## **Schedule 6.2      Regulatory Asset Base**

### **S6.2.1      Establishment of opening regulatory asset base for a regulatory control period**

#### **(a)      Application of this clause**

This clause S6.2.1:

- (1) applies to the establishment of the value of the regulatory asset base for a *distribution system* as at the beginning of a *regulatory control period* on the roll forward of the regulatory asset base to that *regulatory control period* from the previous *regulatory control period*; and
- (2) also applies to the establishment of the value of the regulatory asset base for a *distribution system* as at the beginning of a *regulatory control period* where the *distribution system* was not immediately before that time the subject of a *building block determination*.

(b) **Roll forward model to comply with this clause**

The values to be used for completing the *roll forward model* must be established in accordance with this clause and clauses S6.2.2 and S6.2.3.

(c) **Distribution systems of specific providers**

- (1) In the case of a *distribution system* owned, controlled or operated by one of the following *Distribution Network Service Providers* as at the commencement of this schedule, the value of the regulatory asset base for that *distribution system* as at the beginning of that first *regulatory year* must be determined by rolling forward the regulatory asset base for that *distribution system*, as set out in the table below, in accordance with this schedule:

<b>Jurisdiction</b>	<b><i>Distribution Network Service Provider</i></b>	<b>Regulatory Asset Base (\$m)</b>
Australian Capital Territory	ActewAGL	510.54 (as at 1 July 2004 in July 2004 dollars)
New South Wales	Country Energy	2,440 (as at 1 July 2004 in July 2004 dollars)
	EnergyAustralia	4,116 (as at 1 July 2004 in July 2004 dollars); plus 635.6 (as at 1 July 2004 in July 2004 dollars) in respect of EnergyAustralia's transmission support network
	Integral Energy	2,283 (as at 1 July 2004 in July 2004 dollars)
*****	*****	*****

- (2) The values in the table above are to be adjusted for the difference between:
- (i) any estimated capital expenditure that is included in those values for any part of a previous *regulatory control period*; and
  - (ii) the actual capital expenditure for that part of the previous *regulatory control period*.

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.

- (3) When rolling forward a regulatory asset base under subparagraph (1), the *AER* must take into account the derivation of the values in the

above table from past regulatory decisions and the consequent fact that they relate only to the regulatory asset base identified in those decisions.

(d) \*\*\*\*\*

(e) **Method of adjustment of value of regulatory asset base**

Except as otherwise provided in paragraph (c), the value of the regulatory asset base for a *distribution system* as at the beginning of the first *regulatory year* of a *regulatory control period* must be calculated by adjusting the value (the '**previous value**') of the regulatory asset base for that *distribution system* as at the beginning of the first *regulatory year* of the immediately preceding *regulatory control period* (the '**previous control period**') as follows:

- (1) The previous value of the regulatory asset base for each NSW Distribution Network Service Provider must be increased by the amount of all capital expenditure incurred during the previous control period.
- (1A) The previous value of the regulatory asset base for the ACT Distribution Network Service Provider must be increased by the amount of the capital expenditure incurred during the previous control period that is to be included under the ICRC approach referred to in clause 6.5.1(g) of the transitional Chapter 6.
- (2) The previous value of the regulatory asset base must be increased by the amount of the estimated capital expenditure approved by the *AER* for any part of the previous control period for which actual capital expenditure is not available.
- (3) The previous value of the regulatory asset base must be adjusted for the difference between:
  - (i) the estimated capital expenditure for any part of a previous *regulatory control period* where that estimated capital expenditure has been included in that value; and
  - (ii) the actual capital expenditure for that part of the previous *regulatory control period*.

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.

- (4) The previous value of the regulatory asset base must only be increased by actual or estimated capital expenditure to the extent that all such capital expenditure is properly allocated to the provision of *standard control services* in accordance with the Cost Allocation Method for the relevant *Distribution Network Service Provider*.

- (5) The previous value of the regulatory asset base for each NSW Distribution Network Service Provider must be reduced by the amount of actual depreciation of the regulatory asset base during the previous *regulatory control period*, calculated in accordance with the rates and methodologies allowed in the distribution determination for that period.
- (5A) The previous value of the regulatory asset base for the ACT Distribution Network Service Provider must be reduced by the amount of depreciation of the regulatory asset base during the previous *regulatory control period*, calculated in accordance with the distribution determination for that period.
- (6) The previous value of the regulatory asset base must be reduced by the disposal value of any asset where that asset has been disposed of during the previous *regulatory control period*.
- (7) The previous value of the regulatory asset base must be reduced by the value of an asset where the asset was previously used to provide *standard control services* (or their equivalent under the previous regulatory system) but, as a result of a change to the classification of a particular service under Part B, is not to be used for that purpose for the relevant *regulatory control period*.
- (8) The previous value of the regulatory asset base may be increased by the value of an asset to which this subparagraph applies to the extent that:
  - (i) the *AER* considers the asset to be reasonably required to achieve one or more of the *capital expenditure objectives*; and
  - (ii) the asset is properly allocated to *standard control services* in accordance with the principles and policies set out in the Cost Allocation Method for the relevant *Distribution Network Service Provider*; and
  - (iii) the value of the asset has not been otherwise recovered.

This subparagraph applies to an asset that:

- (i) was not used to provide *standard control services* (or their equivalent under the previous regulatory system) in the previous *regulatory control period* but, as a result of a change to the classification of a particular service under Part B, is to be used for that purpose for the relevant *regulatory control period*; or
- (ii) was never previously used to provide *standard control services* (or their equivalent under the previous regulatory system) but is to be used for that purpose for the relevant *regulatory control period*.

- (f) An increase or reduction in the value of the regulatory asset base under subparagraph (7) or (8) of paragraph (e) is to be based on the value of the relevant asset as shown in independently audited and published accounts.
- (g) Despite any other provision of this clause S6.2.1, the regulatory asset base for Country Energy at the beginning of the regulatory control period 2009-2014 should reflect the deferral of depreciation allowed for Country Energy in clause 7.3.2 of the IPART's Final Report (Other Paper No 23 - June 2004) relating to NSW Electricity Distribution Pricing 2004/05 to 2008/09.

**S6.2.2 \*\*\*\*\***

**S6.2.3 Roll forward of regulatory asset base within the same regulatory control period**

**(a) Application of this clause**

This clause applies to the establishment of the value of the regulatory asset base for a *distribution system* as at the beginning of one *regulatory year* in a *regulatory control period* on the roll forward of the regulatory asset base to that *regulatory year* from the immediately preceding *regulatory year* (if any) in that *regulatory control period*.

**(b) Roll forward model to comply with this clause**

The *roll forward model* referred to in clause 6.5.1 of the *Rules* must provide for that value to be established in accordance with the requirements of this clause.

**(c) Method of adjustment of value of regulatory asset base**

The value of the regulatory asset base for a *distribution system* as at the beginning of the second or a subsequent year ('**the later year**') in a *regulatory control period* must be calculated by adjusting the value ('**the previous value**') of the regulatory asset base for that *distribution system* as at the beginning of the immediately preceding *regulatory year* ('**the previous year**') in that *regulatory control period* as follows:

- (1) The previous value of the regulatory asset base must be increased by the amount of forecast capital expenditure accepted or substituted by the *AER* for the previous year in accordance with clause 6.5.7(c) or clause 6.12.1(3) (as the case may be).
- (2) The previous value of the regulatory asset base must be reduced by the amount of depreciation included in the *Distribution Network Service Provider's annual revenue requirement* for the previous year.
- (3) The previous value of the regulatory asset base must be reduced by the disposal value of any asset included in that value where the asset is forecast to be disposed of during the previous year.

- (4) The previous value of the regulatory asset base must be increased by an amount necessary to maintain the real value of the regulatory asset base as at the beginning of the later year by adjusting that value for inflation.

(d) **Allowance for working capital**

If the *AER* determines that it is appropriate to do so, it may include an allowance for working capital in the regulatory asset base for a *distribution system* which is rolled forward in accordance with this clause.