

# PROPOSED RULE ON TRANSMISSION ENTRY AND EXIT CHARGES

## Appendix 1: Proposed Rule Drafting

### Amendments to Chapter 6A

#### 6A.19.2 Cost Allocation Principles

(6) [Deleted]

#### 6A.19.4 Cost Allocation Methodology

- (b) The *Cost Allocation Methodology* proposed by a *Transmission Network Service Provider* must give effect to and be consistent with the *Cost Allocation Guidelines* and the requirements of clause 11.6.11.

#### 6A.21.2 Development of Transmission Ring-Fencing Guidelines

- (a) Transmission ring-fencing guidelines must be developed by the *AER* in consultation with the *Jurisdictional Regulators* and each *participating jurisdiction* for the accounting and functional separation of the provision of *prescribed transmission services* by *Transmission Network Service Providers* from the provision of other services by *Transmission Network Service Providers* (the '*Transmission Ring-Fencing Guidelines*').
- (b) The *Transmission 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 *Transmission Network Service Provider* provides *network services* from any other entity through which it conducts business;
    - (ii) the establishment and maintenance of consolidated and separate accounts for *prescribed transmission services* and other services provided by the *Transmission Network Service Provider*;
    - (iii) allocation of costs between, on the one hand, *transmission services* and, on the other hand, other services provided by the *Transmission Network Service Provider*;
    - (iv) limitations on the flow of information between the *Transmission 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 *Transmission Network Service Provider's* business which provide *prescribed transmission services* and parts of the provider's business which provide any other services; and
  - (2) provisions allowing the *AER* to add to or waive a *Transmission Network Service Provider's* obligations under the *Transmission Ring-Fencing Guidelines*.

- (c) In developing the *Transmission Ring-Fencing Guidelines*, the AER must consider, without limitation, the following matters:
  - (1) the need, so far as practicable, for consistency with Federal and State regulation in each *participating jurisdiction* of ring-fencing requirements of other utility businesses; and
  - (2) the need, so far as practicable, for consistency between the *Transmission Ring-Fencing Guidelines* and *Distribution Ring-Fencing Guidelines*.
- (d) In developing or amending the *Transmission Ring-Fencing Guidelines*, the AER must consult with *participating jurisdictions*, *Registered Participants*, *NEMMCO* and other *interested parties*, and such consultation must be otherwise in accordance with the *transmission consultation procedures*.
- (e) The *Transmission Ring-Fencing Guidelines* must not provide for the allocation of costs as between *transmission services*.

### **S6A.2.3 Removal of assets from regulatory asset base**

- (a) Subject to clause S6A.2.3(ab), for the purposes of rolling forward the regulatory asset base for a *transmission system* as described in clause 6A.6.1 of the *Rules* and this schedule, the AER may only determine to remove, from the regulatory asset base for a *transmission system*, the value of an asset (or group of assets):
  - (1) to the extent that:
    - (i) the asset (or group of assets) is dedicated to one *Transmission Network User* (not being a *Distribution Network Service Provider*) or a small group of *Transmission Network Users*; and
    - (ii) the value of the asset (or group of assets), as included in the value of that regulatory asset base as at the beginning of the first *regulatory year* of the current *regulatory control period*, exceeds the *indexed amount*, as at the time of the AER's determination, of \$10 million;
  - (2) if the AER determines that the asset (or group of assets) is no longer contributing to the provision of *prescribed transmission services*; and
  - (3) if the AER determines that the relevant *Transmission Network Service Provider* has not adequately sought to manage the risk of that asset (or that group of assets) no longer contributing to the provision of *prescribed transmission services* by:
    - (i) seeking to negotiate the payment of a lower price by the relevant *Transmission Network Users* for those *prescribed transmission services* in accordance with the *Rules*; or
    - (ii) in the case of assets committed to be constructed on or after 16 February 2006, seeking to enter into arrangements which provide for a reasonable allocation of the risks of the value of that asset (or group of assets) no longer contributing to the provision of *prescribed transmission services*.

For the purposes of subparagraph (ii), an asset is, and is only, to be taken to be committed to be constructed if it satisfies the criteria which a

project needs to satisfy to be a "committed project" for the purposes of the *regulatory test*.

- (ab) Notwithstanding clause S6A.2.3(a), the *AER* may not determine to remove the value of an asset (or group of assets) from the regulatory asset base for a *transmission system* if:
- (1) either or both of clauses S6A.2.3(a)(1)(i) and (2) in respect of the asset (or group of assets) is satisfied as a result of a reconfiguration of the *transmission system*; and
  - (2) the *Transmission Network User*, or each of the members of the small group of *Transmission Network Users*, referred to in clause S6A.2.3(a)(1)(i):
    - (i) has not requested or consented in writing to that reconfiguration; or
    - (ii) has not unreasonably refused or failed to consent to the removal of the value of the relevant assets (or group of assets) from the regulatory asset base within a reasonable time after receiving a written request for such consent from the relevant *Transmission Network Service Provider*.

For the purposes of subparagraph (ii), and without limitation, any refusal or failure by a *Transmission Network User* to consent to the removal of the value of the relevant assets (or group of assets) from the regulatory asset base will not be taken to be unreasonable if the prices payable by that *Transmission Network User* or any member of the group of *Transmission Network Users* for the services provided by those assets are likely to increase, as a result of such removal and the application of the *Transmission Network Service Provider's Negotiated Transmission Service Criteria* to the calculation of those prices, by more than 5%.

## Amendments to Chapter 11

### 11.6.11 Transition to new Chapter 6A: existing prescribed transmission services

- (aa) In this clause 11.6.11:
- (1) an **eligible existing asset** means an asset that, as at 9 February 2006, is used in connection with a *transmission system*;
  - (2) an **eligible committed asset** means an asset that, as at 9 February 2006, is committed to be constructed for use in connection with a *transmission system*; and
  - (3) an asset is, and is only, to be taken to be committed to be constructed if it satisfies the criteria which a project needs to satisfy to be a "committed project" for the purposes of the *regulatory test*.
- (a) References to *prescribed transmission services* in the new Chapter 6A include a service in respect of which the following criteria are satisfied:
- (1) the service:
    - (i) is a service that, as at 16 November 2006, is provided by an eligible existing asset or an eligible committed asset; or

(ii) is a service that is provided by an eligible committed asset in circumstances where, as at 16 November 2006, that asset was not yet in use but:

(A) had that asset been in use as at that date; and

(B) had that service been provided by that asset as at that date,

that service would be a service of the kind referred to in subparagraph (i);

(2) the value of the asset referred to in subparagraph (1), or the proportion of its value that is attributable to the provision of the service, is included in the regulatory asset base for the relevant *transmission system*;

(3) the price for the service has not been negotiated under a negotiating framework that is approved or included in a final decision of the *AER* under clause 6A.14.1(b) or that is established pursuant to old clause 6.5.9; and

(4) the service is a service that, as at 16 November 2006 and but for this clause 11.6.11, would not otherwise be a *prescribed transmission service*.

(b) Where a service is a *prescribed transmission service* by virtue of the operation of this clause, that service is taken not to be a *negotiated transmission service*.

(c) [Deleted]

(d) For the purposes of clauses 6A.19.2(3), 6A.22.3(a)(1) and 6A.22.4(a), the costs of *transmission system* assets that may be treated as:

(1) directly attributable to the provision of *prescribed entry services* or *prescribed exit services*; or

(2) incurred in providing *prescribed entry services* or *prescribed exit services*,

and which may therefore be allocated, in accordance with a *Transmission Network Service Provider's Cost Allocation Methodology* or clause 6A.23.3, to *prescribed entry services* or *prescribed exit services* that are provided at a particular *transmission network connection point*, are limited to the costs of:

(3) eligible existing assets and eligible committed assets that, as at 16 November 2006, were fully dedicated to the provision, at that *transmission network connection point*, of services that constitute *prescribed entry services* or *prescribed exit services* (as the case may be); and

(4) eligible committed assets that, as at 16 November 2006, were not yet in use but, had those assets been in use as at that date, would have been fully dedicated to the provision, at that *transmission network connection point*, of services that constitute *prescribed entry services* or *prescribed exit services* (as the case may be).

(e) Notwithstanding clauses 6A.19.2(3) and 6A.22.3(a), any costs that, but for clause 11.6.11(d), would have been allocated, in accordance with a *Transmission*

*Network Service Provider's Cost Allocation Methodology* or clauses 6A.23.2 and 6A.23.3, to *prescribed entry services* or *prescribed exit services*, must instead:

- (1) in the case of costs that would otherwise have been treated as if they were directly attributable to the provision of *prescribed entry services* or *prescribed exit services* – be treated as costs that are directly attributable to the provision of *prescribed TUOS services*; and
- (2) in the case of costs (other than those referred to in subparagraph (1)) that would otherwise have been treated as if they were incurred in providing *prescribed entry services* or *prescribed exit services* – be treated as costs that are incurred in providing *prescribed TUOS services*,

and, for the purposes of clause 6A.23.2(d)(2), the *stand-alone amount* is taken to include any proportion of the costs referred to in sub-paragraphs (1) and (2) that has not been allocated under clause 6A.23.2(d)(1).