

## **CHAPTER 6A**



## 6A. Economic Regulation of Transmission Services

### Part A Introduction

#### 6A.1 Introduction to Chapter 6A

##### 6A.1.1 Economic regulation of transmission services generally

- (a) Part B of this Chapter 6A states the general obligation of the *AER* to make *transmission determinations* for *Transmission Network Service Providers* in respect of:
  - (1) *prescribed transmission services*; and
  - (2) *negotiated transmission services*.
- (b) Part C of this Chapter 6A regulates the revenues that may be earned by *Transmission Network Service Providers* from the provision by them of *transmission services* that are the subject of *transmission determinations*.
- (c) Part D of this Chapter 6A regulates the *terms and conditions of access* to be applied (including the prices that may be charged) by *Transmission Network Service Providers* for the provision by them of *negotiated transmission services*.
- (d) Part E of this Chapter 6A sets out the procedure and approach for the making of a *transmission determination* by the *AER*.
- (d) Part F of this Chapter 6A contains provisions regarding the disclosure, use and protection of information.
- (e) Part G of this Chapter 6A contains provisions regarding cost allocation.
- (f) Part H of this Chapter 6A contains provisions regarding the *transmission consultation procedures*.
- (g) Part I of this Chapter 6A contains provisions regarding *Transmission Ring-Fencing Guidelines*.
- (h) Part J of this Chapter 6A regulates the prices that may be charged by *Transmission Network Service Providers* for the provision of *prescribed transmission services* and establishes principles to be applied by providers in setting prices that allow those providers to earn the whole of the *aggregate annual revenue requirement*.
- (i) Part K of this Chapter 6A provides for a *commercial arbitrator* to be appointed to resolve *transmission services access disputes* in relation to the *terms and conditions of access* for the provision of *negotiated transmission services* and for *prescribed transmission services*.

- (j) Other *transmission services* provided by *Transmission Network Service Providers (non-regulated transmission services)* are not subject to regulation under this Chapter 6A.
- (k) Services provided by *dual function assets* are not subject to regulation under this Chapter 6A except to the extent provided in Part N of Chapter 6.
- (l) Part L sets out the requirements to prepare *annual benchmarking reports*.

### **6A.1.2 Meaning of terms and conditions of access for transmission services**

For the purposes of the economic regulation of *prescribed transmission services* and *negotiated transmission services*, the *terms and conditions of access*:

- (a) in relation to *negotiated transmission services*, are:
  - (1) the price of those services (including, for services provided under rule 5.4A, *access charges*); and
  - (2) other terms and conditions for the provision of those *negotiated transmission services*,under Chapters 4, 5 and this Chapter 6A of the *Rules*; and
- (b) in relation to *prescribed transmission services*, are:
  - (1) the price of those services as determined under the *pricing methodology* of the relevant *Transmission Network Service Provider*; and
  - (2) other terms and conditions for the provision of those *prescribed transmission services*,under Chapters 4, 5 and this Chapter 6A of the *Rules*.

### **6A.1.3 Access to prescribed and negotiated transmission services**

Subject to and in accordance with the *Rules*:

- (1) a person who is an existing or intending *Registered Participant*, or a person who is eligible to become a *Registered Participant* (a *Service Applicant*) may apply to a *Transmission Network Service Provider* for provision of *prescribed transmission services* or *negotiated transmission services*.
- (2) a *Transmission Network Service Provider* must provide *prescribed transmission services* or *negotiated transmission services* (as the case may be) on *terms and conditions of access* that are consistent with the requirements of Chapters 4, 5 and this Chapter 6A of the *Rules*.
- (3) a *Transmission Network Service Provider* or a person who is provided *prescribed transmission services* or *negotiated transmission services* (whether the person is provided those services under an agreement, as a

result of a determination of a *commercial arbitrator* or otherwise under the *Rules*) must not engage in conduct for the purpose of preventing or hindering access to those services.

#### **6A.1.4 National regulatory arrangements**

- (a) The *AER* is, in accordance with this Chapter 6A, responsible for the economic regulation of *prescribed transmission services* provided by *Transmission Network Service Providers* by means of, or in connection with, *transmission systems* that form part of the *national grid*.
- (b) Subject to any contrary determination by the *AER*, those parts of a *transmission network* operating at nominal *voltages* between 66kV and 220kV that:
  - (1) do not operate in parallel to; and
  - (2) do not provide support to,

the higher *voltage transmission network* may be deemed by the relevant *Transmission Network Service Provider* to be subject to the regulatory arrangements for *distribution service pricing* set out in Chapter 6.

#### **6A.1.5 Application of Chapter 6A to Market Network Service Providers**

- (a) Notwithstanding anything contained in this Chapter 6A:
  - (1) Parts B, C, D and J do not regulate the revenues that may be earned by *Market Network Service Providers* from, or the prices that may be charged by *Market Network Service Providers* for, the provision by them of *market network services*; and
  - (2) Part E does not apply to *Market Network Service Providers*.
- (b) Part D of this Chapter 6A does not regulate the terms and conditions of access for provision by *Transmission Network Service Providers* of *network services* provided to:
  - (1) a *Market Network Service Provider*; or
  - (2) another *Network Service Provider* for electricity delivered to a *Market Network Service Provider* through the *network* of the other *Network Service Provider* (except for any such electricity which is ultimately consumed within the other *Network Service Provider's network*).
- (c) Charges for the *network services* referred to in paragraph (b) are governed by the applicable provisions of rule 5.4A.
- (d) Part K of this Chapter 6A does not apply to disputes relating to the terms and conditions of access for *network services* referred to under this clause 6A.1.5.

### **6A.1.6 Application of Chapter 6A to AEMO and declared transmission system operators**

- (a) This Chapter 6A applies to *AEMO* in respect of the provision of *shared transmission services* by means of, or in connection with, a *declared shared network* subject to the exclusions, qualifications and modifications set out in Schedule 6A.4.
- (b) This Chapter 6A does not apply to *AEMO* as provider of *electricity network services* in any other capacity.
- (c) This Chapter 6A applies to *declared transmission system operators* subject to the exclusions, qualifications and modifications set out in Schedule 6A.4 that expressly apply to them.

## **Part B Transmission Determinations Generally**

### **6A.2 Transmission determinations**

#### **6A.2.1 Duty of AER to make transmission determinations**

The *AER* must make *transmission determinations* for *Transmission Network Service Providers* in accordance with this Chapter 6A in respect of:

- (1) *prescribed transmission services*; and
- (2) *negotiated transmission services*.

#### **6A.2.2 Components of transmission determinations**

A *transmission determination* for a *Transmission Network Service Provider* consists of:

- (1) a *revenue determination* for the provider in respect of the provision by the *Transmission Network Service Provider* of *prescribed transmission services*;
- (2) a determination relating to the *Transmission Network Service Provider's negotiating framework*;
- (3) a determination that specifies the *Negotiated Transmission Service Criteria* that apply to the *Transmission Network Service Provider*; and
- (4) a determination that specifies the *pricing methodology* that applies to the *Transmission Network Service Provider*.

#### **6A.2.3 Guidelines**

- (a) The *AER*:

- (1) must make and *publish* the *Shared Asset Guidelines*, the *Capital Expenditure Incentive Guidelines*, the *Rate of Return Guidelines*, the *Expenditure Forecast Assessment Guidelines*, the *Transmission Confidentiality Guidelines*, the *Cost Allocation Guidelines*, the *information guidelines* and the *pricing methodology guidelines* in accordance with these *Rules*; and
  - (2) may, in accordance with the *transmission consultation procedures*, make and publish guidelines as to any other matters relevant to this Chapter.
- (b) A guideline may relate to a specified *Transmission Network Service Provider* or *Transmission Network Service Providers* of a specified class.
  - (c) Except as otherwise provided in this Chapter, a guideline is not mandatory (and so does not bind the *AER* or anyone else) but, if the *AER* makes a *transmission determination* that is not in accordance with the guideline, the *AER* must state, in its reasons for the *transmission determination*, the reasons for departing from the guideline.
  - (d) If a guideline indicates that there may be a change of regulatory approach in future *transmission determinations*, the guideline should also (if practicable) indicate how transitional issues are to be dealt with.
  - (e) Subject to paragraph (f), the *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace a guideline.
  - (f) The *AER* may make administrative or minor amendments to any guideline without complying with the *transmission consultation procedures*.
  - (g) This clause 6A.2.3 does not apply to the *Transmission Ring-Fencing Guidelines*.

## **Part C Regulation of Revenue - Prescribed Transmission Services**

### **6A.3 Allowed revenue from prescribed transmission services**

#### **6A.3.1 Allowed revenue for regulatory year**

The revenue that a *Transmission Network Service Provider* may earn in any *regulatory year* of a *regulatory control period* from the provision of *prescribed transmission services* is the *maximum allowed revenue* subject to any adjustments referred to in clause 6A.3.2, and is to be determined in accordance with:

- (1) the *revenue determination* forming part of the applicable *transmission determination*; and
- (2) the provisions of this Part C.

### **6A.3.2 Adjustment of maximum allowed revenue**

The *maximum allowed revenue* that a *Transmission Network Service Provider* may earn in any *regulatory year* of a *regulatory control period* from the provision of *prescribed transmission services* is subject to adjustment in accordance with rules 6A.7, 6A.8 or 6A.15.

## **6A.4 Revenue determinations**

### **6A.4.1 Introduction**

- (a) The procedure and approach for the making of a *revenue determination* for a *Transmission Network Service Provider* is contained in Part E of this Chapter 6A, and involves the submission to the AER of a *Revenue Proposal* by the *Transmission Network Service Provider*.
- (b) Such a *Revenue Proposal* must comply with the requirements of this Chapter 6A, and in particular must:
  - (1) be prepared using the *post-tax revenue model* referred to in rule 6A.5;
  - (2) comply with the requirements of, and contain or be accompanied by the information required by, any relevant *regulatory information instrument*; and
  - (3) contain the information and matters specified in Schedule 6A.1.

### **6A.4.2 Contents of revenue determination**

- (a) A *revenue determination* for a *Transmission Network Service Provider* is to specify, for a *regulatory control period*, the following matters:
  - (1) the amount of the estimated *total revenue cap* for the *regulatory control period* or the method of calculating that amount;
  - (2) the *annual building block revenue requirement* for each *regulatory year* of the *regulatory control period*;
  - (3) the amount of the *maximum allowed revenue* for each *regulatory year* of the *regulatory control period* or the method of calculating that amount;
  - (3A) the regulatory asset base as at the commencement of the *regulatory control period*;
  - (4) appropriate methodologies for the indexation of the regulatory asset base;
  - (5) the values that are to be attributed to the *performance incentive scheme parameters* for the purposes of the application to the *Transmission Network Service Provider* of any *service target*



- performance incentive scheme* that applies in respect of the *regulatory control period*;
- (6) the values that are to be attributed to the *efficiency benefit sharing scheme parameters* for the purposes of the application to the *Transmission Network Service Provider* of any *efficiency benefit sharing scheme* that applies in respect of the *regulatory control period*;
  - (6A) how any *capital expenditure sharing scheme* or *small-scale incentive scheme* is to apply to the *Transmission Network Service Provider*; and
  - (7) the commencement and length of the *regulatory control period*.
  - (8) **[Deleted]**
- (a1) A *revenue determination* for a *Transmission Network Service Provider* is also to specify 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.
  - (b) Unless otherwise determined by the AER:
    - (1) the *total revenue cap* may not relate to more than one *transmission system* that is owned, controlled or operated by a *Transmission Network Service Provider*; and
    - (2) there is to be a separate *total revenue cap* for each such *transmission system*.
  - (c) A *regulatory control period* in respect of a *Transmission Network Service Provider* must be not less than 5 *regulatory years*.

## **6A.5 Post-tax revenue model**

### **6A.5.1 Introduction**

- (a) The process of preparing a *revenue determination* for a *Transmission Network Service Provider* involves the submission of a *Revenue Proposal* to the AER by the provider under clause 6A.10.1. The provider is required to prepare the *Revenue Proposal* using a *post-tax revenue model* in relation to that proposal, in accordance with the requirements of this Chapter 6A.
- (b) The principal purpose of the *post-tax revenue model* is to calculate the *maximum allowed revenue* under the *revenue determination*.
- (c) The *post-tax revenue model*, together with the *Revenue Proposal*, form the basis on which the AER assesses a *Revenue Proposal* and makes a *revenue determination*.

### **6A.5.2 Preparation, publication and amendment of post-tax revenue model**

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, prepare and *publish* a *post-tax revenue model*.
- (b) The *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the *post-tax revenue model*.
- (c) The *AER* must develop and *publish* the first *post-tax revenue model* by 28 September 2007, and there must be such a model in force at all times after that date.

### **6A.5.3 Contents of post-tax revenue model**

- (a) The *post-tax revenue model* must set out the manner in which the following matters, referable only to the provision of *prescribed transmission services*, are to be calculated in respect of a *Transmission Network Service Provider* for a *regulatory control period*:
  - (1) the *total revenue cap* for the provider for the period;
  - (2) the *maximum allowed revenue* for the provider for each *regulatory year* of the period; and
  - (3) the *annual building block revenue requirement* for the provider for each *regulatory year*, determined in accordance with clause 6A.5.4.
- (b) The *post-tax revenue model* must specify:
  - (1) a methodology that the *AER* determines is likely to result in the best estimates of expected inflation;
  - (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 6A.5.4;
  - (3) the manner (if any) in which working capital is to be treated;
  - (4) the manner in which the estimated cost of corporate income tax is to be calculated; and
  - (5) the CPI - X methodology that is to be applied in escalating the *maximum allowed revenue* for the provider for each *regulatory year* (other than the first *regulatory year*) of a *regulatory control period*.
- (c) The *post-tax revenue model* must be such that:
  - (1) the net present value of the expected *maximum allowed revenue* for the provider for each *regulatory year* of the *regulatory control period* is equal to the net present value of the *annual building block revenue requirement* for the provider for each *regulatory year*;

- (2) the *maximum allowed revenue* for the provider for the first *regulatory year* is expressed as a dollar amount;
  - (3) the *maximum allowed revenue* for the provider for each *regulatory year* (other than the first *regulatory year*) is calculated by escalating the *maximum allowed revenue* for the provider for the previous *regulatory year* using a CPI - X methodology; and
  - (4) the *total revenue cap* for the provider for a *regulatory control period* is calculated as the sum of the *maximum allowed revenues* for the provider for each *regulatory year*.
- (d) For the purposes of this clause 6A.5.3, the X factor is that determined in accordance with clause 6A.6.8.

#### **6A.5.4 Building blocks approach**

##### **(a) Building blocks generally**

The *annual building block revenue requirement* for a *Transmission Network Service Provider* for each *regulatory year* of a *regulatory control period* must be determined using a building blocks approach, under which the building blocks are:

- (1) indexation of the regulatory asset base - see paragraph (b)(1);
- (2) a return on capital for that year - see paragraph (b)(2);
- (3) the depreciation for that year - see paragraph (b)(3);
- (4) the estimated cost of corporate income tax of the *Transmission Network Service Provider* for that year - see paragraph (b)(4);
- (5) the revenue increments or decrements (if any) for that year arising from the application of any *efficiency benefit sharing scheme*, *capital expenditure sharing scheme*, *service target performance incentive scheme* or *small-scale incentive scheme* - see paragraph (b)(5);
- (5A) the revenue decrements (if any) arising from the use of assets that provide *prescribed transmission services* to provide certain other services – see paragraph (b)(5A);
- (6) the forecast operating expenditure accepted or substituted by the *AER* for that year – see paragraph (b)(6); and
- (7) compensation for other risks - see paragraph (b)(7).

##### **(b) Details about 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 6A.6.1 and schedule 6A.2; and
  - (ii) the building block comprises a negative adjustment equal to the amount referred to in clause S6A.2.4(c)(4) for that year;
- (2) the return on capital is calculated in accordance with clause 6A.6.2;
- (3) the depreciation is calculated in accordance with clause 6A.6.3;
- (4) the estimated cost of corporate income tax is determined in accordance with clause 6A.6.4;
- (5) the revenue increment or decrements referred to in subparagraph (a)(5) are those that arise as a result of the operation of any applicable *efficiency benefit sharing scheme, capital expenditure sharing scheme, service target performance incentive scheme or small-scale incentive scheme*, as referred to in clauses 6A.6.5, 6A.6.5A, 6A.7.4 or 6A.7.5;
- (5A) the revenue decrements (if any) referred to in paragraph (a)(5A) are those that are determined by the AER under clause 6A.5.5 as a result of assets that provide *prescribed transmission services* being used to provide:
  - (i) *non-regulated transmission services*; or
  - (ii) services that are not *transmission services*.
- (6) the forecast operating expenditure is accepted or substituted by the AER in accordance with clause 6A.6.6(c), clause 6A.6.6(c1) or clause 6A.13.2(b)(3) and (5) (as the case may be); and
- (7) the compensation for other risks is such amounts as the AER determines are necessary for that year to compensate a *Transmission Network Service Provider* for risks that are not otherwise compensated for in the return on capital, including the risk referred to in clause S6A.2.3(b) of schedule 6A.2.

### 6A.5.5 Shared assets

- (a) Where an asset is used to provide both *prescribed transmission services* and either:
  - (1) *non-regulated transmission services*; or
  - (2) services that are not *transmission services*,

the AER may, in a *revenue determination* for a *regulatory control period*, reduce the *annual building block revenue requirement* for the *Transmission Network Service Provider* for a *regulatory year* within that *regulatory control period* by such amount as it considers reasonable to reflect such part of the costs of that asset as the *Transmission Network Service Provider* is

recovering though charging for the provision of a service referred to in subparagraph (1) or (2).

- (b) In making a decision under paragraph (a), the *AER* must have regard to the *shared asset principles* and the *Shared Asset Guidelines*.
- (c) The *shared asset principles* are as follows:
  - (1) the *Transmission Network Service Provider* should be encouraged to use assets that provide *prescribed transmission services* for the provision of other kinds of services where that use is efficient and does not materially prejudice the provision of those services;
  - (2) a shared asset cost reduction should not be dependent on the *Transmission Network Service Provider* deriving a positive commercial outcome from the use of the asset other than for those services;
  - (3) a shared asset cost reduction should be applied where the use of the asset other than for *prescribed transmission services* is material;
  - (4) regard should be had to the manner in which costs have been recovered or revenues reduced in respect of the relevant asset in the past and the reasons for adopting that manner of recovery or reduction;
  - (5) a shared asset cost reduction should be compatible with the *Cost Allocation Principles* and *Cost Allocation Method*; and
  - (6) any reduction effected under paragraph (a) should be compatible with other incentives provided under the *Rules*”.
- (d) The *AER* must, in accordance with the *transmission consultation procedures*, make and *publish* guidelines (the *Shared Asset Guidelines*) that set out the approach the *AER* proposes to take in applying the *shared asset principles* (which may include a methodology that the *AER* proposes to use to determine reductions for the purposes of paragraph (a)).
- (e) There must be *Shared Asset Guidelines* in force at all times after the date on which the *AER* first *publishes* the *Shared Asset Guidelines* under these *Rules*.

#### **6A.5.6 Expenditure Forecast Assessment Guidelines**

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, develop and *publish* guidelines (the *Expenditure Forecast Assessment Guidelines*) that specify the approach the *AER* proposes to use to assess the forecasts of operating expenditure and capital expenditure that form part of *Transmission Network Service Providers' Revenue Proposals* and the information the *AER* requires for the purposes of that assessment.

- (b) There must be *Expenditure Forecast Assessment Guidelines* in force at all times after the date on which the AER first publishes the *Expenditure Forecast Assessment Guidelines* under these Rules.

## **6A.5A Capital expenditure incentive mechanisms**

- (a) The *capital expenditure incentive objective* is to ensure that, where the value of a regulatory asset base is subject to adjustment in accordance with the Rules, then the only capital expenditure that is included in an adjustment that increases the value of that regulatory asset base is capital expenditure that reasonably reflects the *capital expenditure criteria*.
- (b) The AER must, in accordance with the *transmission consultation procedures*, make and publish guidelines (the *Capital Expenditure Incentive Guidelines*) that set out:
  - (1) any *capital expenditure sharing schemes* developed by the AER in accordance with clause 6A.6.5A, and how the AER has taken into account the *capital expenditure sharing scheme principles* in developing those schemes;
  - (2) the manner in which it proposes to make determinations under clause S6A.2.2A(a) if the *overspending requirement* is satisfied;
  - (3) the manner in which it proposes to determine whether depreciation for establishing a regulatory asset base as at the commencement of a *regulatory control period* is to be based on actual or forecast capital expenditure;
  - (4) the manner in which it proposed to make determinations under clause S6A.2.2A(i) if the *margin requirement* is satisfied;
  - (5) the manner in which it proposes to make determinations under clause S6A.2.2A(j) if the *capitalisation requirement* is satisfied; and
  - (6) how each scheme and proposal referred to in subparagraphs (1) to (5), and all of them taken together, are consistent with the *capital expenditure incentive objective*.
- (c) There must be *Capital Expenditure Incentive Guidelines* in force at all times after the date on which the AER first publishes the *Capital Expenditure Incentive Guidelines* under these Rules.

## **6A.6 Matters relevant to the making of revenue determinations**

### **6A.6.1 Regulatory asset base**

#### **Nature of regulatory asset base**

- (a) The regulatory asset base for a *transmission system* owned, controlled or operated by a *Transmission Network Service Provider* is the value of those

assets that are used by the *Transmission Network Service Provider* to provide *prescribed transmission 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, in accordance with the *transmission consultation procedures*, develop and *publish* a model for the roll forward of the regulatory asset base for *transmission systems*, referred to as the *roll forward model*.
- (c) The *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the *roll forward model*.
- (d) The *AER* must develop and *publish* the first *roll forward model* by 28 September 2007, and 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 *transmission 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 the subsequent *regulatory year* of that *regulatory control period*;

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 outturn inflation, consistent with the methodology that was used in the *transmission determination* (if any) for the first mentioned *regulatory control period* for the indexation of the *maximum allowed revenue* during that *regulatory control period*.

**Other provisions relating to regulatory asset base**

- (f) Other provisions relating to regulatory asset bases are set out in schedule 6A.2.

## 6A.6.2 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 *Transmission Network Service Provider* for that *regulatory year* that is determined in accordance with this clause 6A.6.2 (the *allowed rate of return*) to the value of the regulatory asset base for the relevant *transmission system* as at the beginning of that *regulatory year* (as established in accordance with clause 6A.6.1 and schedule 6A.2).

### Allowed rate of return

- (b) The *allowed rate of return* is to be determined such that it achieves the *allowed rate of return objective*.
- (c) The *allowed rate of return objective* is that the rate of return for a *Transmission Network Service Provider* is to be commensurate with the efficient financing costs of a benchmark efficient entity with a similar degree of risk as that which applies to the *Transmission Network Service Provider* in respect of the provision of *prescribed transmission services* (the *allowed rate of return objective*).
- (d) Subject to paragraph (b), the *allowed rate of return* for a *regulatory year* must be:
  - (1) a weighted average of the return on equity for the *regulatory control period* in which that *regulatory year* occurs (as estimated under paragraph (f)) and the return on debt for that *regulatory year* (as estimated under paragraph (h)); and
  - (2) determined on a nominal vanilla basis that is consistent with the estimate of the value of imputation credits referred to in clause 6A.6.4.
- (e) In determining the *allowed rate of return*, regard must be had to:
  - (1) relevant estimation methods, financial models, market data and other evidence;
  - (2) the desirability of using an approach that leads to the consistent application of any estimates of financial parameters that are relevant to the estimates of, and that are common to, the return on equity and the return on debt; and
  - (3) any interrelationships between estimates of financial parameters that are relevant to the estimates of the return on equity and the return on debt.

### Return on equity

- (f) The return on equity for a *regulatory control period* must be estimated such that it contributes to the achievement of the *allowed rate of return objective*.



- (g) In estimating the return on equity under paragraph (f), regard must be had to the prevailing conditions in the market for equity funds.

**Return on debt**

- (h) The return on debt for a *regulatory year* must be estimated such that it contributes to the achievement of the *allowed rate of return objective*.
- (i) The return on debt may be estimated using a methodology which results in either:
  - (1) the return on debt for each *regulatory year* in the *regulatory control period* being the same; or
  - (2) the return on debt (and consequently the *allowed rate of return*) being, or potentially being, different for different *regulatory years* in the *regulatory control period*.
- (j) Subject to paragraph (h), the methodology adopted to estimate the return on debt may, without limitation, be designed to result in the return on debt reflecting:
  - (1) the return that would be required by debt investors in a benchmark efficient entity if it raised debt at the time or shortly before the making of the *revenue determination* for the *regulatory control period*;
  - (2) the average return that would have been required by debt investors in a benchmark efficient entity if it raised debt over an historical period prior to the commencement of a *regulatory year* in the *regulatory control period*; or
  - (3) some combination of the returns referred to in subparagraphs (1) and (2).
- (k) In estimating the return on debt under paragraph (h), regard must be had to the following factors:
  - (1) the desirability of minimising any difference between the return on debt and the return on debt of a benchmark efficient entity referred to in the *allowed rate of return objective*;
  - (2) the interrelationship between the return on equity and the return on debt;
  - (3) the incentives that the return on debt may provide in relation to capital expenditure over the *regulatory control period*, including as to the timing of any capital expenditure; and
  - (4) any impacts (including in relation to the costs of servicing debt across *regulatory control periods*) on a benchmark efficient entity referred to in the *allowed rate of return objective* that could arise as a result of

changing the methodology that is used to estimate the return on debt from one *regulatory control period* to the next.

- (l) If the return on debt is to be estimated using a methodology of the type referred to in paragraph (i)(2) then a resulting change to the *Transmission Network Service Provider's annual building block revenue requirement* must be effected through the automatic application of a formula that is specified in the *revenue determination*.

### **Rate of Return Guidelines**

- (m) The *AER* must, in accordance with the *transmission consultation procedures*, make and publish guidelines (the *Rate of Return Guidelines*).
- (n) The *Rate of Return Guidelines* must set out:
  - (1) the methodologies that the *AER* proposes to use in estimating the *allowed rate of return*, including how those methodologies are proposed to result in the determination of a return on equity and a return on debt in a way that is consistent the *allowed rate of return objective*; and
  - (2) the estimation methods, financial models, market data and other evidence the *AER* proposes to take into account in estimating the return on equity, the return on debt and the value of imputation credits referred to in clause 6A.6.4.
- (o) There must be *Rate of Return Guidelines* in force at all times after the date on which the *AER* first publishes the *Rate of Return Guidelines* under these Rules.
- (p) The *AER* must, in accordance with the *transmission consultation procedures*, review the *Rate of Return Guidelines*:
  - (1) at intervals not exceeding three years, with the first interval starting from the date that the first *Rate of Return Guidelines* are published under these Rules; and
  - (2) at the same time as it reviews the *Rate of Return Guidelines* made under clause 6.5.2.
- (q) For the avoidance of doubt, nothing prevents the *AER* from publishing the *Rate of Return Guidelines* made under this clause 6A.6.2 in the same document as the *Rate of Return Guidelines* made under clause 6.5.2.

### **6A.6.3 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 *transmission 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 *Transmission Network Service Provider's Revenue Proposal*; or
  - (ii) to the extent the depreciation schedules nominated in the provider's Revenue Proposal do not so conform, using the depreciation schedules determined for that purpose by the AER in its final decision on the *Transmission Network Service Provider's Revenue Proposal*.
- (b) The depreciation schedules referred to in paragraph (a) must conform to the following requirements:
  - (1) except as provided in paragraph (c), 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 *transmission 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 *transmission system*; and
  - (3) the economic life of the relevant assets and the depreciation methodologies 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 *transmission determination* for that period.
- (c) To the extent that:
  - (1) an asset (or group of assets) the value of which forms part of the regulatory asset base for a *transmission system* is dedicated to one *Transmission Network User* (not being a *Distribution Network Service Provider*) or a small group of *Transmission Network Users*; and
  - (2) the value of the assets (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 commencement of that *regulatory control period*, of \$20 million,

that asset (or group of assets) must be depreciated on a straight line basis over the life at which that asset (or group of assets) was first included in the regulatory asset base for that *transmission system*.

#### 6A.6.4 Estimated cost of corporate income tax

The estimated cost of corporate income tax of a *Transmission Network Service Provider* for each *regulatory year* ( $ETC_t$ ) must be estimated in accordance with the following formula:

$$ETC_t = (ETI_t \times r_t) (1 - \gamma)$$

where:

$ETI_t$  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 *prescribed transmission services* if such an entity, rather than the *Transmission Network Service Provider*, operated the business of the *Transmission Network Service Provider*, such estimate being determined in accordance with the *post-tax revenue model*;

$r_t$  is the expected statutory income tax rate for that *regulatory year* as determined by the *AER*; and

$\gamma$  is the value of imputation credits.

#### 6A.6.5 Efficiency benefit sharing scheme

(a) The *AER* must, in accordance with the *transmission consultation procedures*, develop and publish an incentive scheme or schemes (*efficiency benefit sharing scheme*) that provide for a fair sharing between *Transmission Network Service Providers* and *Transmission Network Users* of:

- (1) the efficiency gains derived from the operating expenditure of *Transmission Network Service Providers* for a *regulatory control period* being less than; and
- (2) the efficiency losses derived from the operating expenditure of *Transmission 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* in accordance with clause 6A.6.6(c), clause 6A.6.6(c1) or clause 6A.13.2(b)(3) and (5) (as the case may be).

(b) In developing and implementing an *efficiency benefit sharing scheme*, the *AER* must have regard to:

- (1) the need to provide *Transmission Network Service Providers* with a continuous incentive (that is equal in each year of any *regulatory control period*) to reduce operating expenditure;
- (2) the desirability of both rewarding *Transmission Network Service Providers* for efficiency gains and penalising *Transmission Network Service Providers* for efficiency losses;

- (3) any incentives that *Transmission Network Service Providers* may have to inappropriately capitalise operating expenditure; and
  - (4) the possible effects of the scheme on incentives for the implementation of non-*network* alternatives.
- (c) At the same time as it *publishes* an *efficiency benefit sharing scheme* under this clause 6A.6.5, the *AER* must also *publish* parameters (the *efficiency benefit sharing scheme parameters*) for the scheme. For the avoidance of doubt, unless the *AER* provides otherwise in that scheme, such values may differ as between *Transmission Network Service Providers* and over time.
- (d) The *AER* must set out in each *efficiency benefit sharing scheme* any requirements with which the values attributed to the *efficiency benefit sharing scheme parameters* must comply, but such requirements must not be inconsistent with those factors to which the *AER* must have regard under paragraph (b).
- (e) The *AER* must develop and *publish* the first *efficiency benefit sharing scheme* by 28 September 2007, and there must be an *efficiency benefit sharing scheme* in force at all times after that date.
- (f) The *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace an *efficiency benefit sharing scheme*, except that no such amendment or replacement may change the application of the scheme to a *Transmission Network Service Provider* in respect of a *regulatory control period* that has commenced before, or that will commence within 15 months of, the amendment or replacement coming into operation.
- (g) **[Deleted]**
- (h) **[Deleted]**

#### **6A.6.5A Capital expenditure sharing scheme**

- (a) A *capital expenditure sharing scheme* is a scheme that provides *Transmission Network Service Providers* with an incentive to undertake efficient capital expenditure during a *regulatory control period*.
- (b) If the *AER* develops a *capital expenditure sharing scheme* in accordance with this clause, the *capital expenditure sharing scheme* must be consistent with the *capital expenditure incentive objective*.
- (c) In developing a *capital expenditure sharing scheme*, the *AER* must take into account the following principles (the *capital expenditure sharing scheme principles*):
  - (1) *Transmission Network Service Providers* should be rewarded or penalised for improvements or declines in efficiency of capital expenditure; and

- (2) the rewards and penalties should be commensurate with the efficiencies or inefficiencies in capital expenditure, but a reward for efficient capital expenditure need not correspond in amount to a penalty for the same amount of inefficient capital expenditure.
- (d) In developing a *capital expenditure sharing scheme*, the *AER* must also take into account:
  - (1) the interaction of the scheme with other incentives that *Transmission Network Service Providers* may have in relation to undertaking efficient operating or capital expenditure; and
  - (2) the *capital expenditure objectives* and, if relevant, the *operating expenditure objectives*.
- (e) In deciding:
  - (1) whether to apply a *capital expenditure sharing scheme* to a *Transmission Network Service Provider* for a *regulatory control period*; and
  - (2) the nature and details of any *capital expenditure sharing scheme* that is to apply to a *Transmission Network Service Provider* for a *regulatory control period*,the *AER* must:
  - (3) make that decision in a manner that contributes to the achievement of the *capital expenditure incentive objective*; and
  - (4) take into account:
    - (i) both the *capital expenditure sharing scheme principles*, and the matters referred to in paragraph (d), as they apply to the *Transmission Network Service Provider*; and
    - (ii) the circumstances of the *Transmission Network Service Provider*.

#### **6A.6.6 Forecast operating expenditure**

- (a) A *Revenue Proposal* must include the total forecast operating expenditure for the relevant *regulatory control period* which the *Transmission 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 *prescribed transmission services* over that period;
  - (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *prescribed transmission services*;

- (3) to the extent that there is no applicable *regulatory obligation or requirement* in relation to:
  - (i) the quality, reliability or security of supply of *prescribed transmission services*; or
  - (ii) the reliability or security of the *transmission system* through the supply of *prescribed transmission services*,to the relevant extent:
  - (iii) maintain the quality, reliability and security of supply of *prescribed transmission services*; and
  - (iv) maintain the reliability and security of the *transmission system* through the supply of *prescribed transmission services*; and
- (4) maintain the safety of the *transmission system* through the supply of *prescribed transmission services*.
- (b) The forecast of required operating expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* must:
  - (1) comply with the requirements of any relevant *regulatory information instrument*;
  - (2) be for expenditure that is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the *Transmission 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 operating expenditure for each *regulatory year* of the relevant *regulatory control period*.
- (c) Subject to paragraph (c1), the AER must accept the forecast of required operating expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* if the AER is satisfied that the total of the forecast operating expenditure for the *regulatory control period* reasonably reflects each of the following (the *operating expenditure criteria*):
  - (1) the efficient costs of achieving the *operating expenditure objectives*;
  - (2) the costs that a prudent operator 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*.

(c1) If:

- (1) a *Transmission Network Service Provider* made *network support payments* in accordance with a relevant agreement for *network support services* in the previous *regulatory control period*; and
- (2) the *Transmission Network Service Provider* must continue to make *network support payments* to fulfil obligations under the relevant agreement for *network support services* in the relevant *regulatory control period*,

the *AER* must accept the forecast of required operating expenditure of the *Transmission Network Service Provider* included in a *Revenue Proposal* in relation to the remainder of costs required to meet obligations under the relevant agreement for *network support services* in the relevant *regulatory control period*.

(d) Subject to paragraph (c1), if the *AER* is not satisfied as referred to in paragraph (c), it must not accept the forecast of required operating expenditure of a *Transmission Network Service Provider* that is included in a *Revenue 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) **[Deleted]**
- (2) **[Deleted]**
- (3) **[Deleted]**
- (4) the most recent *annual benchmarking report* that has been published under clause 6A.31 and the benchmark operating expenditure that would be incurred by an efficient *Transmission Network Service Provider* over the relevant *regulatory control period*;
- (5) the actual and expected operating expenditure of the *Transmission Network Service Provider* during any preceding *regulatory control periods*;
- (5A) the extent to which the operating expenditure forecast includes expenditure to address the concerns of electricity consumers as identified by the *Transmission Network Service Provider* in the course of its engagement with electricity consumers;
- (6) the relative prices of operating and capital inputs;
- (7) the substitution possibilities between operating and capital expenditure;



- (8) whether the operating expenditure forecast is consistent with any incentive scheme or schemes that apply to the *Transmission Network Service Provider* under clauses 6A.6.5, 6A.7.4 or 6A.7.5;
- (9) the extent the operating expenditure forecast is referable to arrangements with a person other than the *Transmission Network Service Provider* that, in the opinion of the *AER*, do not reflect arm's length terms;
- (10) whether the operating expenditure forecast includes an amount relating to a project that should more appropriately be included as a *contingent project* under clause 6A.8.1(b);
- (11) the most recent *NTNDP* and any submissions made by *AEMO*, in accordance with the *Rules*, on the forecast of the *Transmission Network Service Provider's* required operating expenditure;
- (12) the extent to which the *Transmission Network Service Provider* has considered and made provision for efficient and prudent non-network alternatives;
- (13) any relevant *project assessment conclusions report* required under 5.16.4 ; and
- (14) any other factor the *AER* considers relevant and which the *AER* has notified the *Transmission Network Service Provider* in writing, prior to the submission of its revised *Revenue Proposal* under clause 6A.12.3, is an *operating expenditure factor*.

(f) [Deleted]

#### **6A.6.7 Forecast capital expenditure**

- (a) A *Revenue Proposal* must include the total forecast capital expenditure for the relevant *regulatory control period* which the *Transmission 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 *prescribed transmission services* over that period;
  - (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *prescribed transmission services*;
  - (3) to the extent that there is no applicable *regulatory obligation or requirement* in relation to:
    - (i) the quality, reliability or security of supply of *prescribed transmission services*; or
    - (ii) the reliability or security of the *transmission system* through the supply of *prescribed transmission services*,

to the relevant extent:

- (iii) maintain the quality, reliability and security of supply of *prescribed transmission services*; and
    - (iv) maintain the reliability and security of the *transmission system* through the supply of *prescribed transmission services*; and
  - (4) maintain the safety of the *transmission system* through the supply of *prescribed transmission services*.
- (b) The forecast of required capital expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* must:
  - (1) comply with the requirements of any relevant *regulatory information instrument*;
  - (2) be for expenditure that is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the *Transmission Network Service Provider*;
  - (3) include both:
    - (i) the total of the forecast capital expenditure for the relevant *regulatory control period*; and
    - (ii) the forecast capital expenditure for each *regulatory year* of the relevant *regulatory control period*; and
  - (4) identify any forecast capital expenditure:
    - (i) that is for a *reliability augmentation*; or
    - (ii) that is for an option that has satisfied the *regulatory investment test for distribution* or *regulatory investment test for transmission* (as the case may be).
- (c) The AER must accept the forecast of required capital expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* if the AER is satisfied that the total of the forecast capital expenditure for the *regulatory control period* reasonably reflects each of the following (*capital expenditure criteria*):
  - (1) the efficient costs of achieving the *capital expenditure objectives*;
  - (2) the costs that a prudent operator 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*.

- (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 *Transmission 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) **[Deleted]**
  - (2) **[Deleted]**
  - (3) **[Deleted]**
  - (4) the most recent *annual benchmarking report* that has been *published* under clause 6A.31 and benchmark capital expenditure that would be incurred by an efficient *Transmission Network Service Provider* over the relevant *regulatory control period*;
  - (5) the actual and expected capital expenditure of the *Transmission Network Service Provider* during any preceding *regulatory control periods*;
  - (5A) the extent to which the capital expenditure forecast includes expenditure to address the concerns of electricity consumers as identified by the *Transmission Network Service Provider* in the course of its engagement with electricity consumers;
  - (6) the relative prices of operating and capital inputs;
  - (7) the substitution possibilities between operating and capital expenditure;
  - (8) whether the capital expenditure forecast is consistent with any incentive scheme or schemes that apply to the *Transmission Network Service Provider* under clauses 6A.6.5A, 6A.7.4 or 6A.7.5;
  - (9) the extent to which the capital expenditure forecast is referable to arrangements with a person other than the *Transmission Network Service Provider* that, in the opinion of the *AER*, do not reflect arm's length terms;
  - (10) whether the capital expenditure forecast includes an amount relating to a project that should more appropriately be included as a *contingent project* under clause 6A.8.1(b);
  - (11) the most recent *NTNDP*, and any submissions made by *AEMO*, in accordance with the *Rules*, on the forecast of the *Transmission Network Service Provider's* required capital expenditure;

- (12) the extent to which the *Transmission Network Service Provider* has considered and made provision for efficient and prudent non-*network* alternatives;
- (13) any relevant *project assessment conclusions report* required under clause 5.16.4; and
- (14) any other factor the *AER* considers relevant and which the *AER* has notified the *Transmission Network Service Provider* in writing, prior to the submission of its revised *Revenue Proposal* under clause 6A.12.3, is a *capital expenditure factor*.

(f) **[Deleted]**

**Forecast capital expenditure and contingent projects**

- (g) Paragraphs (h) - (k) apply where:
  - (1) in a *regulatory control period* (the **first regulatory control period**) the *AER* determines under clause 6A.8.2(e)(1)(iii) that the likely completion date for a *contingent project* is a date which occurs in the immediately following *regulatory control period* (the **second regulatory control period**); and
  - (2) there is an unspent amount of capital expenditure for that *contingent project* under paragraph (h).
- (h) A *Transmission Network Service Provider's Revenue Proposal* for the second *regulatory control period*, must include in the forecast of required capital expenditure referred to in paragraph (a) an amount of any unspent capital expenditure for each *contingent project* as described in paragraph (g)(2), that equals the difference (if any) between:
  - (1) the total capital expenditure for that *contingent project*, as determined by the *AER* in the first *regulatory control period* under clause 6A.8.2(e)(1)(ii); and
  - (2) the total of the capital expenditure actually incurred (or estimated capital expenditure for any part of the first *regulatory control period* for which actual capital expenditure is not available) in the first *regulatory control period* for that *contingent project*.
- (i) The *AER* must include in any forecast capital expenditure for the second *regulatory control period* which is accepted in accordance with paragraph (c), estimated in accordance with clause 6A.14.1(2)(ii) or substituted in accordance with clause 6A.13.2(b)(4) and (5) (as the case may be), the amount of any unspent capital expenditure calculated in accordance with paragraph (h).
- (j) Without limiting the requirement in paragraph (i), in deciding whether or not to accept the forecast of required capital expenditure of a *Transmission*

*Network Service Provider* for the second *regulatory control period* in accordance with this clause 6A.6.7, the *AER* must not:

- (1) assess the reasonableness of the amount of unspent capital expenditure for a *contingent project* referred to in paragraph (h) or the remaining period to which the *contingent project* applies;
  - (2) assess the reasonableness of the timing of the unspent capital expenditure within the remaining period for a *contingent project* referred to in paragraph (h) except as part of the assessment of the total forecast capital expenditure under paragraph (c); or
  - (3) take into account any amount which represents for a *contingent project* referred to in paragraph (h) the difference between:
    - (i) the amount representing the sum of the forecast capital expenditure for that *contingent project* for each year of the immediately preceding *regulatory control period* referred to in clause 6A.8.2(e)(1)(i); and
    - (ii) the total capital expenditure actually incurred (or estimated capital expenditure for any part of the preceding *regulatory control period* for which actual capital expenditure is not available) in the immediately preceding *regulatory control period* for that *contingent project*.
- (k) A *Revenue Proposal* in respect of the second *regulatory control period* must not include in the forecast of required capital expenditure referred to in paragraph (a) any capital expenditure for a *contingent project* for the first *regulatory control period*:
- (1) to the extent that the capital expenditure was included in the amount of capital expenditure for that *contingent project* as determined in the first *regulatory control period* under clause 6A.8.2(e)(1)(i); and
  - (2) the capital expenditure actually incurred (or estimated capital expenditure for any part of the first *regulatory control period* for which actual capital expenditure is not available) in the first *regulatory control period* for that *contingent project* exceeded the capital expenditure referred to in subparagraph (1).

#### **6A.6.8 The X factor**

- (a) A *revenue determination* is to include the X factor for each *regulatory year* for a *Transmission Network Service Provider*.
- (b) The X factors for each *regulatory year* must be:
  - (1) providing they comply with the requirements set out in paragraph (c), the X factors for those *regulatory years* that are nominated in the *Transmission Network Service Provider's Revenue Proposal*; or

- (2) to the extent that the X factors nominated in the *Transmission Network Service Provider's Revenue Proposal* do not so comply, the X factors determined for that purpose by the AER in its final decision on the *Transmission Network Service Provider's Revenue Proposal*.
- (c) The X factor for each *regulatory year* must be such that:
  - (1) the net present value of the expected *maximum allowed revenue* for the relevant *Transmission Network Service Provider* for each *regulatory year* (as calculated in accordance with the *post-tax revenue model*) is equal to the net present value of the *annual building block revenue requirement* for the provider for each *regulatory year* (as calculated in accordance with the *post-tax revenue model*); and
  - (2) the expected *maximum allowed revenue* for the provider for the last *regulatory year* (as calculated in accordance with the *post-tax revenue model*) is as close as reasonably possible to the *annual building block revenue requirement* for the provider for that *regulatory year* (as calculated in accordance with the *post-tax revenue model*).
- (d) For the avoidance of doubt, there may be a different X factor that applies for different *regulatory years* of the *regulatory control period*.

#### **6A.6.9 Pass through events**

- (a) A *Revenue Proposal* may include a proposal as to the events that should be defined as *pass through events* under clause 6A.7.3(a1)(5) having regard to the *nominated pass through event considerations*.
- (b) In determining whether to accept the pass through events nominated by a *Transmission Network Service Provider* in its *Revenue Proposal* under paragraph(a), the AER must take into account the *nominated pass through event considerations*.

### **6A.7 Matters relevant to the adjustment of revenue cap after making of revenue determination**

#### **6A.7.1 Reopening of revenue determination for capital expenditure**

- (a) Subject to paragraph (b), a *Transmission Network Service Provider* may, during a *regulatory control period*, apply to the AER to revoke and substitute a *revenue determination* that applies to it where:
  - (1) an event that is beyond the reasonable control of the *Transmission Network Service Provider* has occurred during that *regulatory control period* and the occurrence of that event during that period (or of an event of a similar kind) could not reasonably have been foreseen by the provider at the time of the making of the *revenue determination* ('the **event**');

- (2) no forecast capital expenditure was accepted or substituted by the *AER* for that period under clause 6A.6.7(c) or clause 6A.13.2(b)(4) and (5) (as the case may be) in relation to the event that has occurred;
- (3) the *Transmission Network Service Provider* proposes to undertake capital expenditure to rectify the adverse consequences of the event;
- (4) the total of the capital expenditure required during the *regulatory control period* to rectify the adverse consequences of the event:
  - (i) exceeds 5% of the value of the regulatory asset base for the relevant *Transmission Network Service Provider* for the first year of the relevant *regulatory control period*;
  - (ii) is such that, if undertaken, it is reasonably likely (in the absence of any other reduction in capital expenditure) to result in the total actual capital expenditure for that *regulatory control period* exceeding the total of the forecast capital expenditure for that *regulatory control period* as accepted or substituted by the *AER* in accordance with clause 6A.6.7(c) or clauses 6A.13.2(b)(4) and (5) (as the case may be); and
- (5) the *Transmission Network Service Provider* can demonstrate that it is not able to reduce capital expenditure in other areas to avoid the consequence referred to in clause 6A.7.1(a)(4)(ii) without materially adversely affecting the *reliability* and security of the relevant *transmission system*;
- (6) a failure to rectify the adverse consequences of the event would be likely to materially adversely affect the *reliability* and security of the relevant *transmission system*; and
- (7) the event is not a *pass through event* or a *contingent project*.

In this paragraph (a), a reference to an event includes a series of events or a state of affairs, which may include a greater than anticipated increase in demand.

- (b) An application referred to in paragraph (a) must not be made within 90 *business days* prior to the end of a *regulatory year*.
- (c) Following its receipt of an application made in accordance with paragraphs (a) and (b), the *AER* must:
  - (1) consult with the *Transmission Network Service Provider* and such other persons as it considers appropriate in relation to the application; and
  - (2) make its decision on the application within 40 *business days* from the later of the date the *AER* receives the application and the date the *AER* receives any information required by the *AER* under paragraph (f1).

- (d) The *AER* must, and must only, revoke a *revenue determination* following an application made in accordance with paragraphs (a) and (b) if the *AER* is satisfied of each of the matters referred to in paragraph (a).
- (e) If the *AER* revokes a *revenue determination* under paragraph (d), the *AER* must make a new *revenue 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.
- (f) The substituted *revenue determination* must only vary from the revoked *revenue determination* to the extent necessary:
  - (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of such additional capital expenditure as the *AER* determines is appropriate (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6A.6.7(c)); and
  - (2) to reflect the effect of any resultant increase in forecast capital expenditure on:
    - (i) the forecast operating expenditure for the remainder of the *regulatory control period*;
    - (ii) the *maximum allowed revenue* for each *regulatory year* in the remainder of the *regulatory control period*; and
    - (iii) the X factor for each of the remaining *regulatory years* of the *regulatory control period*.
- (f1) A *Transmission Network Service Provider* must provide the *AER* with such additional information as the *AER* requires for the purpose of making a decision on an application made by that *Transmission Network Service Provider* under paragraph (a) within the time specified by the *AER* in a notice provided to the *Transmission Network Service Provider* by the *AER* for that purpose.

#### **Extension of time limit**

- (g) If the *AER* is satisfied that the revocation and substitution of a revenue determination under paragraphs (d) and (e) involves issues of such complexity or difficulty that the time limit fixed in subparagraph (c)(2) should be extended, the *AER* may extend that time limit by a further period of up to 60 *business days*, provided that it gives written notice to the *Transmission Network Service Provider* of that extension not later than 10 *business days* before the expiry of that time limit.
- (h) If the *AER* extends the time limit under paragraph (g), it must make available on its website a notice of that extension as soon as is reasonably practicable.



- (i) Subject to paragraph (i3), if the *AER* gives a written notice to the *Transmission Network Service Provider* stating that it requires information from an *Authority* in order to make a decision on an application made by the *Transmission Network Service Provider* under paragraph (a) then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Transmission Network Service Provider* and when the *AER* receives that information from that *Authority* is to be disregarded.
- (i1) Subject to paragraph (i3), if the *AER* gives a written notice to the *Transmission Network Service Provider* stating that, in order to make a decision on an application made by the *Transmission Network Service Provider* under paragraph (a), it requires information that it anticipates will be made publicly available by a judicial body or royal commission then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Transmission Network Service Provider* and when that information is made publicly available is to be disregarded
- (i2) Where the *AER* gives a notice to the *Transmission Network Service Provider* under paragraph (i) or (i1), it must:
  - (1) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (i) or (i1), as the case may be, has commenced;
  - (2) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (i) or (i1), as the case may be, has ended; and
  - (3) if the information specified in that notice is required from an *Authority*, promptly request that information from the relevant *Authority*.
- (i3) Paragraphs (i) and (i1) do not apply if the *AER* gives the notice specified in those paragraphs to the *Transmission Network Service Provider* later than 10 *business days* before the expiry of the time limit fixed in subparagraph (c)(2).

#### **Revocation and substitution of revenue determination**

- (j) If the *AER* revokes and substitutes a *revenue determination* under paragraph (e), that revocation and substitution must take effect from the commencement of the next *regulatory year*.

#### **6A.7.2 Network support pass through**

- (a) This clause applies where a *network support event* occurs with respect to a *regulatory year* ('the **previous regulatory year**').
- (b) If a *network support event* occurs, a *Transmission Network Service Provider* must seek a determination by the *AER* to pass through to *Transmission Network Users* a *network support pass through amount*.

- (c) Where a *Transmission Network Service Provider* seeks a determination as referred to in paragraph (b), the provider must, within 60 *business days* of the end of the previous *regulatory year*, submit to the *AER* a written statement which specifies:
  - (1) the details of the *network support event* including whether the event was a *negative network support event* or a *positive network support event*;
  - (2) the amount that the provider proposes should be passed through to *Transmission Network Users* in the *regulatory year* following the previous *regulatory year* as a result of the *network support event*;
  - (3) evidence:
    - (i) of the actual increase in the amount of *network support payments*, including certification by an independent and appropriately qualified expert; and
    - (ii) that such amounts occur solely as a consequence of the positive *network support event*; and
  - (4) such other information as may be required pursuant to the any relevant *regulatory information instrument* .
- (d) If the *AER* determines that a *positive network support event* has occurred in respect of a statement under paragraph (c), the *AER* must determine the *network support pass through amount*, taking into account the matters referred to in paragraph (i).
- (e) If the *AER* does not make the determination referred to in paragraph (d) within 60 *business days* from the date it receives the *Transmission 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 the amount as proposed in the *Transmission Network Service Provider's* statement under paragraph (c) is the *network support pass through amount*.
- (f) If a *negative network support event* occurs (whether or not the occurrence of that event is notified by the provider to the *AER* under paragraph (c)) and the *AER* determines to impose a requirement on the *Transmission Network Service Provider* in relation to that *negative network support event*, the *AER* must determine the *network support pass through amount* taking into account the matters referred to in paragraph (i).
- (g) A *Transmission Network Service Provider* must provide the *AER* with such information as the *AER* requires for the purpose of making a determination under paragraph (f) within the time specified by the *AER* in a notice provided to the provider by the *AER* for that purpose.

### Consultation

- (h) Before making a determination under paragraph (d) or (f), the *AER* may consult with the relevant *Transmission Network Service Provider* and such other persons as the *AER* considers appropriate, on any matters arising out of the relevant *network support event* as the *AER* considers appropriate.

### Relevant factors

- (i) In making a determination under paragraph (d) or (f), the *AER* must take into account:
  - (1) the matters and proposals set out in any statement given to the *AER* by the *Transmission Network Service Provider* under paragraph (c);
  - (2) in the case of a *positive network support event*, the increase in costs in the provision of *prescribed transmission services* that the provider has incurred in the preceding *regulatory year* as a result of the *positive network support event*;
  - (3) in the case of a *positive network support event*, the efficiency of the *Transmission Network Service Provider's* decisions and actions in relation to the risk of the event, including whether the provider has failed to take any action that could reasonably be taken to reduce the magnitude of the *positive network support 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 event;
  - (4) the time cost of money based on the *allowed rate of return* for the provider for the relevant *regulatory control period*;
  - (5) the need to ensure that the provider only recovers any actual increment in costs under this paragraph (i) to the extent that such increment is solely as a consequence of a *network support event*; and
  - (6) any other factors the *AER* considers relevant.

### 6A.7.3 Cost pass through

- (a1) Any of the following is a *pass through event* for a *transmission determination*:
  - (1) a *regulatory change event*;
  - (2) a *service standard event*;
  - (3) a *tax change event*;
  - (4) an *insurance event*; and
  - (5) any other event specified in a *transmission determination* as a *pass through event* for the determination.

- (a) If a *positive change event* occurs, a *Transmission Network Service Provider* may seek the approval of the *AER* to pass through to *Transmission Network Users* a *positive pass through amount*.
- (b) If a *negative change event* occurs, the *AER* may require the *Transmission Network Service Provider* to pass through to *Transmission 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 *Transmission 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*;
  - (2) the date on which the *positive change event* occurred;
  - (3) the *eligible pass through amount* in respect of that *positive change event*;
  - (4) the *positive pass through amount* the *Transmission Network Service Provider* proposes in relation to the *positive change event*;
  - (5) the amount of the *positive pass through amount* that the *Transmission Network Service Provider* proposes should be passed through to *Transmission Network Users* in the *regulatory year* in which, and each *regulatory year* after that in which, the *positive change event* occurred;
  - (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
  - (7) such other information as may be required pursuant to 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 *Transmission 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) Subject to paragraph (l), the *AER* does not make the determinations referred to in paragraph (d) within 40 *business days* from the later of the date it receives the *Transmission Network Service Provider's* statement and accompanying evidence under paragraph (c), and the date it receives any additional information required under paragraph (e1), 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 *Transmission Network Service 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 *positive pass through amount* that the provider proposes in its statement under paragraph(c) should be passed through to *Transmission Network Users* in the *regulatory year* in which, and each *regulatory year* after that in which, the *positive change event* occurred, is the amount that should be so passed through in each such *regulatory year*.
- (e1) A *Transmission Network Service Provider* must provide the *AER* with such additional information as the *AER* requires for the purpose of making a determination under paragraph (d) within the time specified by the *AER* in a notice provided to the *Transmission Network Service Provider* by the *AER* for that purpose.

### **Negative pass through**

- (f) A *Transmission 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 *Transmission Network Service Provider*, a written statement which specifies:
  - (1) the details of the *negative change event* concerned;
  - (2) the date the *negative change event* occurred;
  - (3) the costs in the provision of *prescribed transmission services* that the *Transmission Network Service Provider* has saved and is likely to save as a result of the *negative change event* until:
    - (i) unless sub paragraph(ii) applies – the end of the *regulatory control period* in which the *negative change event* occurred; or
    - (ii) if the *transmission 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 the cost savings - the end of the *regulatory control period* following that in which the *negative change event* occurred;

- (4) the aggregate amount of those saved costs that the *Transmission Network Service Provider* proposes should be passed through to *Transmission Network Users*;
  - (5) the amount of the costs referred to in subparagraph(4) the *Transmission Network Service Provider* proposes should be passed through to *Transmission 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 pursuant to any relevant *regulatory information instrument*.
- (f1) If the occurrence of the *negative change event* is not notified by the *Transmission Network Service Provider* to the AER under paragraph (f) then, as soon as is reasonably practicable and before making a determination referred to in paragraph (g), the AER must notify the *Transmission Network Service Provider* of the occurrence of that *negative change event*.
- (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 *Transmission Network Service 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 *Transmission Network Users* (the *negative pass through amount*); and
    - (ii) the amount of that *negative pass through amount* that should be passed through to *Transmission Network Users* in the *regulatory year* in which, and each *regulatory year* after that in which, the *negative change event* occurred.
- (g1) Subject to paragraph (1), if the AER does not make the determinations referred to in paragraph (g) within 40 *business days* from:
- (1) where the *Transmission Network Service Provider* notifies the AER of the occurrence of the negative change event under paragraph (f) - the later of the date the AER receives the *Transmission Network Service Provider's* statement under paragraph (f) and the date the AER receives any information required by the AER under paragraph (h); or
  - (2) where the *Transmission Network Service Provider* does not notify the AER of the occurrence of the negative change event under paragraph (f) – the later of the date the AER notifies the *Transmission Network Service Provider* under paragraph (g1) and the date the AER receives any information required by the AER under paragraph (h),

then the *AER* is taken to have determined that the required pass through amount is zero.

- (h) A *Transmission 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 *Transmission Network Service 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 *Transmission Network Service Provider* and such other persons as the *AER* considers appropriate, on any matters arising out of the relevant *pass through event* as the *AER* considers appropriate.

### Relevant factors

- (j) In making a determination under paragraph (d) or (g) in respect of a *Transmission 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 *Transmission Network Service Provider* under paragraphs (c) or (f) (as the case may be);
  - (2) in the case of a *positive change event*, the increase in costs in the provision of *prescribed transmission services* that, as a result of the *positive change event*, the *Transmission Network Service 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 *transmission 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;
  - (2A) in the case of a *negative change event*, the costs in the provision of *prescribed transmission services* that, as a result of the *negative change event*, the *Transmission Network Service 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 *transmission 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 *Transmission Network Users* – the end of

the *regulatory control period* following that in which the *negative change event* occurred;

- (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*;
- (4) the time cost of money based on the *allowed rate of return* for the *Transmission Network Service Provider* for the *regulatory control period* in which the *pass through event* occurred;
- (5) the need to ensure that the *Transmission Network Service 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*;
- (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;
- (6A) whether the costs of the *pass through event* have already been factored into the calculation of the provider's *maximum allowed revenues* for the *regulatory control period* in which the *pass through event* occurred or will be factored into the calculation of the provider's *maximum allowed revenues* for a subsequent *regulatory control period*;
- (6B) the extent to which the costs that the *Transmission Network Service Provider* has incurred and is likely to incur are the subject of a previous determination made by the *AER* under this clause 6A.7.3; and
- (7) any other factors the *AER* considers relevant

#### **Extension of time limits**

- (k) The *AER* must, by written notice to a *Transmission Network Service Provider*, extend a time limit fixed in paragraph (c) or (f) if the *AER* is satisfied that the difficulty of assessing or quantifying the effect of the relevant *pass through event* justifies the extension.
- (l) If the *AER* is satisfied that the making of a determination under paragraph (d) or (g) involves issues of such complexity or difficulty that the time limit fixed in paragraph (e) or (g1) should be extended, the *AER* may extend that time limit by a further period of up to 60 *business days*, provided that it gives written notice to the *Transmission Network Service Provider* of that extension not later than 10 *business days* before the expiry of that time limit.



- (m) If the *AER* extends a time limit under paragraph (l), it must make available on its website a notice of that extension as soon as is reasonably practicable.
- (n) Subject to paragraph (q), if the *AER* gives a written notice to the *Transmission Network Service Provider* stating that it requires information from an *Authority* in order to make a determination under paragraph (d) or (g) then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Transmission Network Service Provider* and when the *AER* receives that information from that *Authority* is to be disregarded.
- (o) Subject to paragraph (q), if the *AER* gives a written notice to the *Transmission Network Service Provider* stating that, in order to make a determination under paragraph (d) or (g), it requires information that it anticipates will be made publicly available by a judicial body or royal commission then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Transmission Network Service Provider* and when that information is made publicly available is to be disregarded.
- (p) Where the *AER* gives a notice to the *Transmission Network Service Provider* under paragraph (n) or (o), it must:
  - (1) as soon as reasonably practicable make available on its website a notice stating when the period referred to in paragraph (n) or (o), as the case may be, has commenced;
  - (2) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (n) or (o), as the case may be, has ended; and
  - (3) if the information specified in that notice is required from an *Authority*, promptly request that information from the relevant *Authority*.
- (q) Paragraphs (n) and (o) do not apply if the *AER* gives the notice specified in those paragraphs to the *Transmission Network Service Provider* later than 10 *business days* before the expiry of the time limit fixed in paragraphs (e) or (g1).

#### **6A.7.4 Service target performance incentive scheme**

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, develop and *publish* an incentive scheme or schemes (*service target performance incentive scheme*) that comply with the principles in paragraph (b).
- (b) The principles are that the *service target performance incentive scheme* should:

- (1) provide incentives for each *Transmission Network Service Provider* to:
  - (i) provide greater *reliability* of the *transmission system* that is owned, controlled or operated by it at all times when *Transmission Network Users* place greatest value on the *reliability* of the *transmission system*; and
  - (ii) improve and maintain the *reliability* of those elements of the *transmission system* that are most important to determining *spot prices*;
- (2) result in a potential adjustment to the revenue that the *Transmission Network Service Provider* may earn, from the provision of *prescribed transmission services*, in each *regulatory year* in respect of which the *service target performance incentive scheme* applies;
- (3) 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*;
- (4) take into account the *regulatory obligations or requirements* with which *Transmission Network Service Providers* must comply;
- (5) take into account any other incentives provided for in the *Rules* that *Transmission Network Service Providers* have to minimise capital or operating expenditure; and
- (6) take into account the age and ratings of the assets comprising the relevant *transmission system*.
- (c) At the same time as it *publishes* a *service target performance incentive scheme*, the *AER* must also *publish* parameters (the *performance incentive scheme parameters*) for the scheme. For the avoidance of doubt, the parameters may differ as between *Transmission Network Service Providers* and over time.
- (d) The *AER* must set out in each *service target performance incentive scheme* any requirements with which the values attributed to the *performance incentive scheme parameters* must comply, and those requirements must be consistent with the principles set out in paragraph (b).
- (e) The *AER* must develop and *publish* the first *service target performance incentive scheme* under the *Rules* by 28 September 2007 and there must be a *service target performance incentive scheme* in force at all times after that date.
- (f) **[Deleted]**
- (g) **[Deleted]**

- (h) [Deleted]

#### 6A.7.5 Small-scale incentive scheme

- (a) The AER may, in accordance with the *transmission consultation procedures*, develop and *publish* an incentive scheme or schemes (*small-scale incentive scheme*) that provides *Transmission Network Service Providers* with incentives to provide *prescribed transmission services* in a manner that contributes to the achievement of the *national electricity objective*.
- (b) In developing and applying a *small-scale incentive scheme*, the AER must have regard to the following matters:
- (1) *Transmission Network Service Providers* should be rewarded or penalised for efficiency gains or losses in respect of their *transmission systems*;
  - (2) the rewards and penalties should be commensurate with the efficiency gains or efficiency losses in respect of a *transmission system*, but a reward for efficiency gains need not correspond in amount to a penalty for efficiency losses;
  - (3) the benefits to electricity consumers that are likely to result from efficiency gains in respect of a *transmission system* should warrant the rewards provided under the scheme, and the detriments to electricity consumers that are likely to result from efficiency losses in respect of a *transmission system* should warrant the penalties provided under the scheme;
  - (4) the interaction of the scheme with other incentives that *Transmission Network Service Providers* may have under the *Rules*; and
  - (5) the *capital expenditure objectives* and the *operating expenditure objectives*.
- (c) The AER may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace any *small-scale incentive scheme*.
- (d) Where the AER applies a *small-scale incentive scheme* to a *Transmission Network Service Provider* for a *regulatory control period*:
- (1) the aggregate rewards or penalties for a *regulatory year* in that *regulatory period* that are provided or imposed under that scheme and any other *small-scale incentive schemes* that apply to that *Transmission Network Service Provider* must not exceed 0.5% of the *maximum allowed revenue* for the *Transmission Network Service Provider* for that *regulatory year* unless the *Transmission Network Service Provider* consents to the contrary, in which case that aggregate must not exceed 1% of the *maximum allowed revenue* for

the *Transmission Network Service Provider* for that *regulatory year*;  
and

- (2) *small-scale incentive scheme* must cease to provide rewards or impose penalties in respect of a *regulatory year* after the expiry of such a period as is determined by the *AER*, being a period that is not more than two *regulatory control periods* after the commencement of that scheme.
- (e) Notwithstanding anything else contained in this clause, the *AER* may require a *Transmission Network Service Provider* to participate in a trial of a small-scale incentive scheme under which, for the duration of that trial, the *Transmission Network Service Provider* is not required to bear any penalty and is not entitled to earn any reward.

## **6A.8 Contingent Projects**

### **6A.8.1 Acceptance of a Contingent Project in a revenue determination**

- (a) A *Revenue Proposal* may include *proposed contingent capital expenditure*, which the *Transmission Network Service Provider* considers is reasonably required for the purpose of undertaking a *proposed contingent project*.
- (b) The *AER* must determine that a *proposed contingent project* is a *contingent project* if the *AER* is satisfied that:
  - (1) the *proposed contingent project* is reasonably required to be undertaken in order to achieve any of the *capital expenditure objectives*;
  - (2) the *proposed contingent capital expenditure*:
    - (i) is not otherwise provided for (either in part or in whole) in the total of the forecast capital expenditure for the relevant *regulatory control period* which is accepted in accordance with clause 6A.6.7(c) or substituted in accordance with clauses 6A.13.2(b)(4) and (5) (as the case may be);
    - (ii) reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*, in the context of the *proposed contingent project* as described in the *Revenue Proposal*; and
    - (iii) exceeds either \$30 million or 5% of the value of the *maximum allowed revenue* for the relevant *Transmission Network Service Provider* for the first year of the relevant *regulatory control period* whichever is the larger amount;
  - (3) the *proposed contingent project* and the *proposed contingent capital expenditure*, as described or set out in the *Revenue Proposal*, and the

information provided in relation to these matters, complies with the requirements of any relevant *regulatory information instrument*; and

- (4) the *trigger events* in relation to the *proposed contingent project* which are proposed by the *Transmission Network Service Provider* in its *Revenue Proposal* are appropriate.
- (c) In determining whether a *trigger event* in relation to a *proposed contingent project* is appropriate for the purposes of subparagraph (b)(4), the *AER* must have regard to the need for a *trigger event*:
  - (1) to be reasonably specific and capable of objective verification;
  - (2) to be a condition or event, which, if it occurs, makes the undertaking of the *proposed contingent project* reasonably necessary in order to achieve any of the *capital expenditure objectives*;
  - (3) to be a condition or event that generates increased costs or categories of costs that relate to a specific location rather than a condition or event that affects the *transmission network* as a whole;
  - (4) to be described in such terms that the occurrence of that event or condition is all that is required for the *revenue determination* to be amended under clause 6A.8.2; and
  - (5) to be an event or condition, the occurrence of which is probable during the *regulatory control period*, but the inclusion of capital expenditure in relation to it under clause 6A.6.7 is not appropriate because:
    - (i) it is not sufficiently certain that the event or condition will occur during the *regulatory control period* or if it may occur after that *regulatory control period* or not at all; or
    - (ii) subject to the requirement to satisfy clause 6A.8.1(b)(2)(iii), the costs associated with the event or condition are not sufficiently certain.

## **6A.8.2 Amendment of revenue determination for contingent project**

- (a) Subject to paragraph (b), a *Transmission Network Service Provider* may, during a *regulatory control period*, apply to the *AER* to amend a *revenue determination* that applies to that *Transmission Network Service Provider* where a *trigger event* for a *contingent project* in relation to that *revenue determination* has occurred.
- (b) An application referred to in paragraph (a):
  - (1) must not be made within 90 *business days* prior to the end of a *regulatory year*;

- (2) subject to subparagraph (1), must be made as soon as practicable after the occurrence of the *trigger event*;
- (3) must contain the following information:
  - (i) an explanation that substantiates the occurrence of the *trigger event*;
  - (ii) a forecast of the total capital expenditure for the *contingent project*;
  - (iii) a forecast of the capital and incremental operating expenditure, for each remaining *regulatory year* which the *Transmission Network Service Provider* considers is reasonably required for the purpose of undertaking the *contingent project*;
  - (iv) how the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii);
  - (v) the intended date for commencing the *contingent project* (which must be during the *regulatory control period*);
  - (vi) the anticipated date for completing the *contingent project* (which may be after the end of the *regulatory control period*); and
  - (vii) an estimate of the incremental revenue which the *Transmission Network Service Provider* considers is likely to be required to be earned in each remaining *regulatory year* of the *regulatory control period* as a result of the *contingent project* being undertaken as described in clause 6A.8.2(b)(3)(iii); and
- (4) the estimate referred to in clause 6A.8.2(b)(3)(vii) must be calculated:
  - (i) in accordance with the requirement of the *post-tax revenue model* referred to in clause 6A.5.2;
  - (ii) in accordance with the requirements of the *roll forward model* referred to in clause 6A.6.1(b);
  - (iii) using the *allowed rate of return* for that *Transmission Network Service Provider* for the *regulatory control period* as determined in accordance with clause 6A.6.2;
  - (iv) in accordance with the requirements for depreciation referred to in clause 6A.6.3; and
  - (v) on the basis of the capital expenditure and incremental operating expenditure referred to in subparagraph 6A.8.2(b)(3)(iii).

- (c) As soon as practicable after its receipt of an application made in accordance with paragraphs (a) and (b), the *AER* must *publish* the application, together with an invitation for written submissions on the application.
- (d) The *AER* must consider any written submissions made under paragraph (c) and must make its decision on the application within 40 *business days* from the later of the date the *AER* receives the application and the date the *AER* receives any information required by the *AER* under paragraph (h1). In doing so the *AER* may also take into account such other information as it considers appropriate, including any analysis (such as benchmarking) that is undertaken by it for that purpose.
- (e) If the *AER* is satisfied that the *trigger event* has occurred, and that the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii), it must:
  - (1) determine:
    - (i) the amount of capital and incremental operating expenditure, for each remaining *regulatory year* which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (ii) the total capital expenditure which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (iii) the likely commencement and completion dates for the *contingent project*; and
    - (iv) the incremental revenue which is likely to be required by the *Transmission Network Service Provider* in each remaining *regulatory year* as a result of the *contingent project* being undertaken as described in clause 6A.8.2(e)(1)(i) and (ii), such estimate being calculated in accordance with subparagraph (2);
  - (2) calculate the estimate referred to in clause 6A.8.2(e)(1)(iv):
    - (i) on the basis of the capital expenditure referred to in clause 6A.8.2(e)(1)(i);
    - (ii) to include the incremental operating expenditure referred to in clause 6A.8.2(e)(1)(i); and
    - (iii) otherwise in accordance with subparagraph (b)(4); and
  - (3) amend the *revenue determination* in accordance with paragraph (h).
- (f) In making the determinations referred to in subparagraph (e)(1), the *AER* must accept the relevant amounts and dates, contained in the *Transmission Network Service Provider's* application, as referred to in clauses 6A.8.2(b)(3)(ii) – (vii), if the *AER* is satisfied that:

- (1) the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii);
  - (2) the amounts of forecast capital expenditure and incremental operating expenditure reasonably reflect the *capital expenditure criteria* and the *operating expenditure criteria*, taking into account the *capital expenditure factors* and the *operating expenditure factors* respectively, in the context of the *contingent project*;
  - (3) the estimates of incremental revenue are reasonable; and
  - (4) the dates are reasonable.
- (g) In making the determinations referred to in paragraphs (e)(1) and (f), the *AER* must have regard to:
- (1) the information included in or accompanying the application;
  - (2) submissions received in the course of consulting on the application;
  - (3) such analysis as is undertaken by or for the *AER*;
  - (4) the expenditure that would be incurred in respect of a *contingent project* by an efficient and prudent operator in the circumstances of the *Transmission Network Service Provider*;
  - (5) the actual and expected capital expenditure of the *Transmission Network Service Provider* for *contingent projects* during any preceding *regulatory control periods*;
  - (6) the extent to which the forecast capital expenditure for the *contingent project* is referable to arrangements with a person other than the *Transmission Network Service Provider* that, in the opinion of the *AER*, do not reflect arm's length terms;
  - (7) the relative prices of operating and capital inputs in relation to the *contingent project*;
  - (8) the substitution possibilities between operating and capital expenditure in relation to the *contingent project*; and
  - (9) whether the capital and operating expenditure forecasts for the *contingent project* are consistent with any incentive scheme or schemes that apply to the *Transmission Network Service Provider* under clauses 6A.6.5, 6A.6.5A, 6A.7.4 or 6A.7.5.
- (h) Amendments to a *revenue determination* referred to in paragraph (e)(3) must only vary the determination to the extent necessary:
- (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of capital expenditure determined under clause 6A.8.2(e)(1)(i) (in which case the amount of that



adjustment will be taken to be accepted by the *AER* under clause 6A.6.7(c));

- (2) to adjust the forecast operating expenditure for that *regulatory control period* to accommodate the amount of incremental operating expenditure determined under clause 6A.8.2(e)(1)(i) (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6A.6.6(c)); and
- (3) to reflect the effect of any resultant increase in forecast capital and operating expenditure on:
  - (i) the *maximum allowed revenue* for each *regulatory year* in the remainder of the *regulatory control period*; and
  - (ii) the *X factor* for each *regulatory year* in the remainder of the *regulatory control period*.
- (h1) A *Transmission Network Service Provider* must provide the *AER* with such additional information as the *AER* requires for the purpose of making a decision on an application made by that *Transmission Network Service Provider* under paragraph (a) within the time specified by the *AER* in a notice provided to the *Transmission Network Service Provider* by the *AER* for that purpose.

#### **Extension of time limit**

- (i) If the *AER* is satisfied that amending a *revenue determination* under subparagraphs (e)(3) and paragraph (h) involves issues of such complexity or difficulty that the time limit fixed in paragraph (d) should be extended, the *AER* may extend that time limit by a further period of up to 60 *business days*, provided that it gives written notice to the *Transmission Network Service Provider* of that extension no later than 10 *business days* before the expiry of that time limit.
- (j) If the *AER* extends the time limit under paragraph (i), it must make available on its website a notice of that extension as soon as is reasonably practicable.
- (k) Subject to paragraph (k3), if the *AER* gives a written notice to the *Transmission Network Service Provider* stating that it requires information from an *Authority* in order to make a decision on an application made by the *Transmission Network Service Provider* under paragraph (a) then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Transmission Network Service Provider* and when the *AER* receives that information from that *Authority* is to be disregarded.
- (k1) Subject to paragraph (k3), if the *AER* gives a written notice to the *Transmission Network Service Provider* stating that, in order to make a decision on an application made by the *Transmission Network Service Provider* under paragraph (a), it requires information from a judicial body or royal commission then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Transmission Network*

*Service Provider* and when that information is made publicly available is to be disregarded.

- (k2) Where the *AER* gives a notice to the *Transmission Network Service Provider* under paragraph (k) or (k1), it must:
- (1) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (k) or (k1), as the case may be, has commenced;
  - (2) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (k) or (k1), as the case may be, has ended; and
  - (3) if the information specified in that notice is required from an *Authority*, promptly request that information from the relevant *Authority*.
- (k3) Paragraphs (k) and (k1) do not apply if the *AER* gives the notice specified in those paragraphs to the *Transmission Network Service Provider* later than 10 *business days* before the expiry of the time limit fixed in paragraph (d).

#### **Amendment of revenue determination**

- (l) Amendments to a *revenue determination* take effect from the commencement of the next *regulatory year*.

## **Part D Negotiated Transmission Services**

### **6A.9 Negotiated transmission services**

#### **6A.9.1 Principles relating to access to negotiated transmission services**

The following principles constitute the *Negotiated Transmission Services Principles*:

- (1) the price for a *negotiated transmission 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 Methodology* for the relevant *Transmission Network Service Provider*;
- (2) subject to subparagraphs (3) and (4), the price for a *negotiated transmission service* should be at least equal to the avoided cost of providing it but no more than the cost of providing it on a stand alone basis;
- (3) if the *negotiated transmission service* is the provision of a *shared transmission service* that:
  - (i) exceeds the network performance requirements (if any) which that *shared transmission 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 transmission 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 *Transmission Network Service Provider's* incremental cost of providing that service;

- (4) if the *negotiated transmission service* is the provision of a *shared transmission 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 transmission service* which meets (but does not exceed) the *network* performance requirements set out in schedules 5.1a and 5.1 should reflect the amount of the *Transmission Network Service Provider's* avoided cost of providing that service;
- (5) the price for a *negotiated transmission service* must be the same for all *Transmission Network Users* unless there is a material difference in the costs of providing the *negotiated transmission service* to different *Transmission Network Users* or classes of *Transmission Network Users*;
- (6) the price for a *negotiated transmission 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 such adjustment should reflect the extent to which the costs of that asset is being recovered through charges to that other person;
- (7) the price for a *negotiated transmission service* should be such as to enable the *Transmission Network Service Provider* to recover the efficient costs of complying with all *regulatory obligations or requirements* associated with the provision of the *negotiated transmission service*;
- (8) any *access charges* should be based on the costs reasonably incurred by the *Transmission Network Service Provider* in providing *transmission network user access* and (in the case of compensation referred to in rules 5.4A(h) - (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 rule 5.4A(h)-(j) where an event referred to in those paragraphs occurs;
- (9) the *terms and conditions of access* for a *negotiated transmission 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 transmission service* is to be treated as being fair and reasonable if it complies with principles (1) to (7) of this clause 6A.9.1);
- (10) the *terms and conditions of access* for a *negotiated transmission 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 *Transmission Network Service Provider* and the other party, the price for the *negotiated transmission service* and the costs to the *Transmission Network Service Provider* of providing the *negotiated transmission service*; and

- (11) the *terms and conditions of access* for a *negotiated transmission 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*.

#### **6A.9.2 Determination of terms and conditions of access for negotiated transmission services**

- (a) A *Transmission Network Service Provider* must comply with:
- (1) the provider's *negotiating framework*; and
  - (2) the provider's *Negotiated Transmission Service Criteria*,
- when the provider is negotiating the *terms and conditions of access* for *negotiated transmission services* to be provided to a person.
- (b) The *Transmission Network Service Provider* must also comply with Chapters 4, 5, and this Chapter 6A, 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 *Transmission Network User*.

#### **6A.9.3 Negotiating framework determination**

The determination specifying requirements relating to the *negotiating framework* forming part of a *transmission determination* for a *Transmission Network Service Provider* is to set out requirements that are to be complied with in respect of the preparation, replacement, application or operation of the provider's *negotiating framework*.

#### **6A.9.4 Negotiated transmission criteria determination**

- (a) The determination by the *AER* specifying the *Negotiated Transmission Service Criteria* forming part of a *transmission determination* for a *Transmission Network Service Provider* is to set out the criteria that are to be applied:
- (1) by the provider in negotiating:
    - (i) the *terms and conditions of access* for *negotiated transmission services*, including the prices that are to be charged for the

- provision of those services by the provider for the relevant *regulatory control period*;
- (ii) any *access charges* which are negotiated by the provider during that *regulatory control period*; and
- (2) by a *commercial arbitrator* in resolving any dispute, between the *Transmission Network Service Provider* and a person who wishes to receive a *negotiated transmission service*, in relation to:
- (i) the *terms and conditions of access* for the *negotiated transmission service*, including the price that is to be charged for the provision of that service by the provider;
  - (ii) any *access charges* that are to be paid to or by the provider.
- (b) The *Negotiated Transmission Service Criteria* must give effect to and be consistent with the *Negotiated Transmission Service Principles* set out in clause 6A.9.1.

#### **6A.9.5 Preparation of and requirements for negotiating framework**

- (a) A *Transmission 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 transmission service* from the provider, as to the *terms and conditions of access* for provision of the service.
- (b) The *negotiating framework* for a *Transmission Network Service Provider* must comply with and be consistent with:
- (1) the applicable requirements of a *transmission 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 *Transmission 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* for provision of the *negotiated transmission service*;
  - (2) a requirement for the provider to provide all such commercial information as a *Service Applicant* may reasonably require to enable that applicant to engage in effective negotiation with the provider for the provision of the *negotiated transmission service*, including the cost information described in subparagraph (3);
  - (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 transmission service*; and
    - (ii) to demonstrate to a *Service Applicant* that the charges for providing the *negotiated transmission service* reflect those costs and/or the cost increment or decrement (as appropriate);
  - (4) a requirement for a *Service Applicant* to provide all such commercial information as the provider may reasonably require to enable the provider to engage in effective negotiation with that applicant for the provision of the *negotiated transmission service*;
  - (5) a reasonable period of time for commencing, progressing and finalising negotiations with a *Service Applicant* for the provision of the *negotiated transmission service*, and a requirement that each party to the negotiation must use its reasonable endeavours to adhere to those time periods during the negotiation;
  - (6) a process for dispute resolution which provides that all disputes as to the *terms and conditions of access* for provision of *negotiated transmission services* are to be dealt with in accordance with Part K of this Chapter 6A;
  - (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 transmission service*;
  - (8) a requirement that the *Transmission Network Service Provider* determine the potential impact on other *Transmission Network Users* of the provision of the *negotiated transmission service*; and
  - (9) a requirement that the *Transmission Network Service Provider* must notify and consult with any affected *Transmission Network Users* and ensure that the provision of the *negotiated transmission services* does not result in non-compliance with obligations in relation to other *Transmission Network Users* under the *Rules*.
- (d) Notwithstanding the foregoing, the *negotiating framework* must not be inconsistent with any of the other requirements of Chapters 4, 5 and this Chapter 6A of the *Rules* and, in the event of any inconsistency, the other requirements in the *Rules* prevail.
- (e) Each *Transmission Network Service Provider* and *Service Applicant* who is negotiating for the provision of a *negotiated transmission service* by the provider must comply with the requirements of the *negotiating framework* in accordance with its terms.

### **6A.9.6 Confidential information**

- (a) Commercial information which is required to be provided to a *Service Applicant* in accordance with clause 6A.9.5(c)(2):
  - (1) does not include confidential information provided to the *Transmission Network Service Provider* by another person; and
  - (2) may be provided subject to a condition that a *Service Applicant* must not provide any part of that commercial information to any other person without the consent of the *Transmission Network Service Provider* which provided the information to that applicant.
- (b) Commercial information which is required to be provided to a *Transmission Network Service Provider* in accordance with clause 6A.9.5(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 *Transmission Network Service Provider* must not provide any part of that commercial information to any other person without the consent of the *Service Applicant* which provided the information to the provider.

### **6A.9.7 Commercial arbitration for negotiated transmission services**

Part K of this Chapter 6A applies to any dispute which may arise between a *Transmission Network Service Provider* and a *Service Applicant* as to the *terms and conditions of access* which the provider proposes to apply to the *Service Applicant* for the provision of a *negotiated transmission service*.

## **Part E Procedure – Revenue determinations, negotiating frameworks and pricing methodologies**

### **6A.10 Revenue Proposal, proposed negotiating framework and proposed pricing methodology**

#### **6A.10.1A AER's framework and approach paper**

- (a) The *AER* must make and publish a document (a *framework and approach paper*) that applies in respect of a *revenue determination* for a matter listed in paragraph (b) in accordance with this clause if:
  - (1) there is no *framework and approach paper* that applies in respect of that *revenue determination* for that matter; or
  - (2) there is a *framework and approach paper* that would apply in respect of that *revenue determination* for that matter, but the *AER* has *published* a notice under paragraph (c)(3) stating that it will make an amended or replacement *framework and approach paper* with respect to that matter.

- (b) A *framework and approach paper* that applies in respect of a *revenue determination* must set out the AER's proposed approach (together with its reasons for the proposed approach), in the forthcoming *revenue determination*, to the following matters:
  - (1) the application to the *Transmission Network Service Provider* of any *service target performance incentive scheme*;
  - (2) the application to the *Transmission Network Service Provider* of any *efficiency benefit sharing scheme*;
  - (3) the application to the *Transmission Network Service Provider* of any *capital expenditure sharing scheme*;
  - (4) the application to the *Transmission Network Service Provider* of any *small-scale incentive scheme*;
  - (5) the application to the *Transmission Network Service Provider* of the *Expenditure Forecast Assessment Guidelines*; and
  - (6) whether depreciation for establishing the regulatory asset base for the relevant *transmission system* as at the commencement of the following *regulatory control period* is to be based on actual or forecast capital expenditure in accordance with clause S6A.2.2B.
- (c) If there is a *framework and approach paper* that would apply in respect of the *revenue determination* for a matter listed in paragraph (b) then:
  - (1) no later than 32 months before the end of the *regulatory control period* that precedes that for which the *revenue determination* is to be made, the *Transmission Network Service Provider* may request the AER in writing to make an amended or replacement *framework and approach paper* in respect of a matter. The request must specify the *Transmission Network Service Provider's* reasons for making that request;
  - (2) no later than 31 months before the end of the *regulatory control period* that precedes that for which the *revenue determination* is to be made, the AER must *publish* a notice inviting submissions on whether it is necessary or desirable to amend or replace that *framework and approach paper* in so far as it relates to a matter (other than any matter specified in a request from the *Transmission Network Service Provider* under subparagraph (1)); and
  - (3) no later than 30 months before the end of the *regulatory control period* that precedes that for which the *revenue determination* is to be made, the AER must make and *publish* a notice that:
    - (i) states that it will make an amended or replacement *framework and approach paper* in respect of the matters specified in a request from the *Transmission Network Service Provider* under subparagraph (1) (if any);



- (ii) if subparagraph (i) applies, is accompanied by a copy of the request from the *Transmission Network Service Provider* under subparagraph (1); and
  - (iii) states whether it will make an amended or replacement *framework and approach paper* in respect of any matter other than any matters referred to in subparagraph (i) above and, if so, the reasons why it considers that it is necessary or desirable to make an amended or replacement *framework and approach paper* in respect of that matter.
- (d) In making the decision referred to in paragraph (c)(3)(iii), the *AER* must have regard to any submissions made in response to the invitation under paragraph (c)(2).
- (e) Where paragraph (a) applies then, at least 23 months before the end of the current *regulatory control period*, the *AER* must, after consulting with the relevant *Transmission Network Service Provider* and such other persons as the *AER* considers appropriate, make, amend or replace the *framework and approach paper*, as the case may be, and:
  - (1) give a copy of it to the relevant *Transmission Network Service Provider*; and
  - (2) *publish* it,as soon as is reasonably practicable.
- (f) A *framework and approach paper* is not binding on the *AER* or a *Transmission Network Service Provider*.
- (g) The *AER* may make and *publish* a *framework and approach paper* that applies in respect of a *revenue determination* for a matter that is not listed in paragraph (b) and, if it does so, this clause 6A.10.1A applies as if that matter were listed in paragraph (b).

#### **6A.10.1B Notification of approach to forecasting expenditure**

- (a) A *Transmission Network Service Provider* must inform the *AER* of the methodology it proposes to use to prepare the forecasts of operating expenditure and capital expenditure that form part of its *Revenue Proposal*.
- (b) A *Transmission Network Service Provider* must submit the information referred to in paragraph (a):
  - (1) at least 24 months before the expiry of a *revenue determination* that applies to the *Transmission Network Service Provider*; or
  - (2) if no *revenue determination* applies to the *Transmission Network Service Provider*, within 3 months after being required to do so by the *AER*.

### **6A.10.1 Submission of proposal, framework, pricing methodology and information**

- (a) A *Transmission Network Service Provider* must submit to the AER a *Revenue Proposal* and a proposed *pricing methodology* relating to the *prescribed transmission services* that are provided by means of, or in connection with, a *transmission system* that is owned, controlled or operated by that *Transmission Network Service Provider*:
  - (1) if any of those *prescribed transmission services* are subject to a *transmission determination*, 17 months before the expiry of the period in respect of which that *transmission determination* applies; or
  - (2) if any of those *prescribed transmission services* are not subject to a *transmission determination*, 3 months after being required to do so by the AER.
- (b) At the same time as it submits a *Revenue Proposal* under paragraph (a), the *Transmission Network Service Provider* must also submit to the AER a proposed *negotiating framework*.
- (c) The *Revenue Proposal* and the proposed *negotiating framework* must comply with the requirements of, and must contain or be accompanied by such information as is required by, any relevant *regulatory information instrument*.
- (d) The proposed *negotiating framework* must also comply with the requirements of clause 6A.9.5.
- (e) A proposed *pricing methodology* must:
  - (1) give effect to and be consistent with the *Pricing Principles for Prescribed Transmission Services*; and
  - (2) comply with the requirements of, and contain or be accompanied by such information as is required by, the *pricing methodology guidelines* made for that purpose under rule 6A.25.
- (f) The *Revenue Proposal* must also:
  - (1) include a statement of whether it is consistent with the most recent *NTNDP* and, if it is inconsistent, identify and give reasons for the inconsistency; and
  - (2) identify any parts of the *Revenue Proposal* or the proposed pricing methodology the *Transmission Network Service Provider* claims to be confidential and wants suppressed from publication on that ground in accordance with the *Transmission Confidentiality Guidelines*.
- (g) The *Revenue Proposal* must be accompanied by an overview paper which includes each of the following matters:

- (1) a summary of the *Revenue Proposal* the purpose of which is to explain the *Revenue Proposal* in reasonably plain language to electricity consumers;
  - (2) a description of how the *Transmission Network Service Provider* has engaged with electricity consumers and has sought to address any relevant concerns identified as a result of that engagement;
  - (3) a description of the key risks and benefits of the *Revenue Proposal* for electricity consumers; and
  - (4) a comparison of the *Transmission Network Service Provider's* proposed total revenue cap with its total revenue cap for the current *regulatory control period*.
- (h) The *Revenue Proposal* must be accompanied by information required by the *Expenditure Forecast Assessment Guidelines* as set out in the *framework and approach paper*.

#### **6A.10.2 [Deleted]**

### **6A.11 Preliminary examination and consultation**

#### **6A.11.1 Preliminary examination and determination of non-compliance with relevant requirements**

- (a) If the *AER* determines that:
- (1) a *Revenue Proposal* submitted by a *Transmission Network Service Provider*;
  - (2) a proposed *negotiating framework* submitted by the *Transmission Network Service Provider*;
  - (3) a proposed *pricing methodology* submitted by the *Transmission Network Service Provider*; or
  - (4) information contained in or accompanying such a *Revenue Proposal*, proposed *negotiating framework*, or proposed *pricing methodology*,

under clause 6A.10.1 does not comply with the requirements of:

- (5) any relevant *regulatory information instrument*; or
- (6) **[Deleted]**
- (7) **[Deleted]**
- (8) the Law or the *Rules*,

the *AER* must notify the provider of that determination as soon as practicable after receiving that *Revenue Proposal*, proposed *negotiating*

*framework*, proposed *pricing methodology* or information (as the case may be).

- (b) A determination referred to in paragraph (a) must be accompanied by written reasons that set out:
  - (1) the respects in which the *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* or information does not comply with the relevant requirements of any relevant *regulatory information instrument*, clause 6A.9.5 or clause 6A.10.1(e) (as the case may be) and the requirements that have not been complied with; and
  - (2) in the case of information which does not comply with those requirements, the reason that the submission of information in accordance with those requirements would assist the *AER* in assessing the *Revenue Proposal*, proposed *negotiating framework* or proposed *pricing methodology*.

#### **6A.11.2 Resubmission of proposal, framework, pricing methodology or information**

- (a) If the *AER* notifies a *Transmission Network Service Provider* of a determination under clause 6A.11.1, the *Transmission Network Service Provider* must, within 1 month of that notice, resubmit its *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* or the required information (as the case may be) in a form that complies with the relevant requirements set out in that determination.
- (b) A *Transmission Network Service Provider* may only make changes to its *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* or the required information for the purposes of paragraph (a) to address the matters raised in the determination under clause 6A.11.1.

#### **6A.11.2A Confidential information**

If the *Transmission Network Service Provider* has identified any part of the *Revenue Proposal* or the proposed *pricing methodology* as submitted or resubmitted to the *AER* (as the case may be) under this Part to be confidential, the *AER* must, as soon as is reasonably practicable, make available on its website a notice that sets out:

- (a) the fact that the *Revenue Proposal* or the proposed *pricing methodology* contains information over which a claim of confidentiality has been made;
- (b) the proportion of material in the *Revenue Proposal* or the proposed *pricing methodology* that is subject to any claim of confidentiality compared to that which is not subject to any such claim; and
- (c) the comparative proportion of material in the *Revenue Proposal* or the proposed *pricing methodology* that is subject to any claim of confidentiality

compared to that which is subject to claims of confidentiality in the *Revenue Proposals* proposed *pricing methodologies* of other *Transmission Network Service Providers*.

### 6A.11.3 Consultation

- (a) Subject to the provisions of the Law, the *Rules* and any *pricing methodology guidelines* about the disclosure of confidential information, the *AER* must *publish*:

- (1) the *Revenue Proposal*;
- (2) the proposed *negotiating framework*;
- (3) the proposed *pricing methodology*; and
- (4) the information,

submitted or resubmitted to it (as the case may be) by the *Transmission Network Service Provider* under rule 6A.9, 6A.10 or this rule 6A.11, together with:

- (5) the *AER's* proposed *Negotiated Transmission Service Criteria* for the *Transmission Network Service Provider*; and
- (6) an invitation for written submissions on the documents and information referred to in subparagraphs (1)-(4),

as soon as practicable after the *AER* determines that the *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* and information comply with the requirements of any *relevant regulatory information instrument*, clause 6A.9.5 or clause 6A.10.1(e) (as applicable).

- (b) The *AER* must *publish*:

- (1) an issues paper not more than 40 *business days* after the submission, under clause 6A.10.1, of the documents, but not any resubmitted documents, referred to in paragraph (a);
- (2) an invitation for written submission on the issues paper; and
- (3) an invitation to attend a public forum on the issues paper.

- (b1) The issues paper referred to in paragraph (b) must identify preliminary issues, whether or not arising out of the documents referred to in paragraph (a), that the *AER* considers are likely to be relevant to its assessment of those documents (however, nothing in this clause is to be taken as precluding the *AER* from considering other issues in making a *transmission determination* for the *Transmission Network Service Provider*).

- (b2) The *AER* must hold a public forum on the issues paper not more than 10 *business days* after the *publication* of the issues paper.

- (c) Any person may make a written submission to the *AER* on the *Revenue Proposal*, the proposed *negotiating framework*, the proposed *pricing methodology*, the proposed *Negotiated Transmission Service Criteria* for the *Transmission Network Service Provider* or the issues paper within the times specified in the invitations referred to in subparagraph (a)(6) and paragraph (b), which in each case must be not earlier than 30 *business days* after the *publication* of the issues paper.

## **6A.12 Draft decision and further consultation**

### **6A.12.1 Making of draft decision**

- (a) The *AER* must make a draft decision in relation to the *Transmission Network Service Provider*.
- (a1) In making a draft decision in relation to the *Transmission Network Service Provider*, and subject to clause 6A.16, the *AER* must have regard to each of the following:
  - (1) the information contained in or accompanying the *Revenue Proposal*, proposed *negotiating framework* and proposed *pricing methodology*;
  - (2) written submissions on the issues paper received under clause 6A.11.3, the documents referred to in subparagraph (1) and the proposed *Negotiated Transmission Service Criteria*; and
  - (3) any analysis undertaken by or for the *AER* that is *published* prior to the making of the draft decision in relation to the *Transmission Network Service Provider* or as part of that draft decision.
- (b) The *AER's* draft decision must be made in accordance with, and must comply with, the relevant requirements of rule 6A.14.
- (c) If the *AER* refuses to approve any of the amounts or values referred to in clause 6A.14.1(1), the *AER's* draft decision must include details of the changes required or matters to be addressed before the *AER* will approve those amounts or values.
- (d) If the *AER* refuses to approve the proposed *negotiating framework*, the *AER's* draft decision must include details of the changes required or matters to be addressed before the *AER* will approve the framework.
- (e) If the *AER* refuses to approve any aspect of a proposed *pricing methodology*, the *AER's* draft decision must include details of the changes required or matters to be addressed before the *AER* will approve the proposed methodology.

### **6A.12.2 Publication of draft decision and consultation**

- (a) The *AER* must, as soon as practicable after the relevant date referred to in clause 6A.10.1(a), *publish*:

- (1) its draft decision and reasons under clause 6A.12.1 and rule 6A.14;
  - (2) notice of the making of the draft decision;
  - (3) notice of a predetermination conference; and
  - (4) an invitation for written submissions on its draft decision.
- (b) The *AER* must hold the predetermination conference at the time, date and place specified in the notice under subparagraph (a)(3) for the purpose of explaining its draft decision.
- (c) Any person may make a written submission to the *AER* on the draft decision within the time specified in the invitation referred to in subparagraph (a)(4), which must be not earlier than 45 *business days* after the making of the draft decision.

### **6A.12.3 Submission of revised proposal, framework or pricing methodology**

- (a) In addition to making such other written submissions as it considers appropriate, the *Transmission Network Service Provider* may, not more than 45 *business days* after the publication of the draft decision, submit to the *AER*:
  - (1) a revised *Revenue Proposal*;
  - (2) a revised proposed *negotiating framework*; or
  - (3) a revised proposed *pricing methodology*.
- (b) A *Transmission Network Service Provider* may only make the revisions referred to in paragraph (a) so as to incorporate the substance of any changes required by, or to address matters raised in, the draft decision.
- (c) A revised *Revenue Proposal* or revised proposed *negotiating framework* must comply with the requirements of, and must contain or be accompanied by such information as is required by, any relevant *regulatory information instrument* or the *Rules*.
- (d) The revised proposed *negotiating framework* must also comply with the requirements of clause 6A.9.5.
- (e) A revised proposed *pricing methodology* must:
  - (1) give effect to and be consistent with the *Pricing Principles for Prescribed Transmission Services*; and
  - (2) comply with the requirements of, and must contain or be accompanied by such information as is required by, the *pricing methodology guidelines*.

- (e1) If the *Transmission Network Service Provider* has identified any part of the revised *Revenue Proposal* or the revised proposed *pricing methodology* to the AER under this Part to be confidential, the AER must, as soon as is reasonably practicable, make available on its website a notice that sets out:
  - (1) the fact that the revised *Revenue Proposal* or the revised proposed *pricing methodology* contains information over which a claim of confidentiality has been made;
  - (2) the proportion of material in the revised *Revenue Proposal* or the revised proposed *pricing methodology* that is subject to any claim of confidentiality compared to that which is not subject to any such claim; and
  - (3) the comparative proportion of material in the revised *Revenue Proposal* or the revised proposed *pricing methodology* that is subject to any claim of confidentiality compared to that which is subject to claims of confidentiality in revised *Revenue Proposals* or the revised proposed *pricing methodologies* of other *Transmission Network Service Providers*.
- (f) Subject to the provisions of the Law and the *Rules* about the disclosure of confidential information, the AER must *publish*:
  - (1) any revised *Revenue Proposal*;
  - (2) any revised proposed *negotiating framework*; or
  - (3) any revised proposed *pricing methodology*,(as the case may be), that is submitted by the *Transmission Network Service Provider* under paragraph (a), together with the accompanying information, as soon as practicable after receipt by the AER.
- (g) The AER may invite written submissions on the revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology*.

#### **6A.12.4 Submissions on specified matters**

If the AER invites further submissions on a revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* under clause 6A.12.3(g), the AER may invite further written submissions on the submissions received under clause 6A.12.2(c) or 6A.12.3(g) by *publishing* an invitation which specifies:

- (a) the matters in respect of which submissions are invited; and
- (b) the time for making submissions, which must not be earlier than 15 *business days* after the date on which the invitation was *published*.



## **6A.13 Final decision**

### **6A.13.1 Making of final decision**

- (a) The *AER* must make a final decision in relation to the *Transmission Network Service Provider*.
- (a1) In making a final decision in relation to the *Transmission Network Service Provider*, and subject to clause 6A.16, the *AER* must have regard to each of the following:
  - (1) the information contained in or accompanying the *Revenue Proposal*, proposed *negotiating framework* and proposed *pricing methodology*;
  - (2) written submissions received under this Part E; and
  - (3) any analysis undertaken by or for the *AER* that is *published* prior to the making of the final decision or as part of the final decision.
- (a2) The *AER* must use its best endeavours to *publish*, a reasonable time prior to the making of the final decision, 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 decision.
- (b) The *AER's* final decision must be made in accordance with, and must comply with, the relevant requirements of rule 6A.14.

### **6A.13.2 Refusal to approve amounts, values, framework or pricing methodology**

- (a) **[Deleted]**
- (b) If the *AER's* final decision is to refuse to approve an amount or value referred to in clause 6A.14.1(1) for the reason that, or a reason which includes the reason that, the *AER* is not satisfied that:
  - (1) the total of the forecast operating expenditure for the *regulatory control period* reasonably reflects the *operating expenditure criteria*, taking into account the *operating expenditure factors*; or
  - (2) the total of the forecast capital expenditure for the *regulatory control period* reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*,the *AER* must:
  - (3) where subparagraph (1) applies, include in its final decision (in addition to the estimate referred to in clause 6A.14.1(3)(ii)) the forecast operating expenditure for each *regulatory year* which the *AER* is satisfied reasonably reflects the *operating expenditure criteria*, taking into account the *operating expenditure factors*, subject only to

- the requirement that the total of such forecasts must equate to the estimate referred to in clause 6A.14.1(3)(ii);
- (4) where subparagraph (2) applies, include in its final decision (in addition to the estimate referred to in clause 6A.14.1(2)(ii)) the forecast capital expenditure for each *regulatory year* which the *AER* is satisfied reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*, subject only to the requirement that the total of such forecasts must equate to the estimate referred to in clause 6A.14.1(2)(ii); and
  - (5) use each such amount (and its components) in place of the forecast of required operating or capital expenditure that is included in the current *Revenue Proposal* for the purposes of calculating the amount or value that it has refused to approve in its final decision.
- (c) If the *AER's* final decision is to refuse to approve the proposed *negotiating framework* referred to in clause 6A.14.1(6), the *AER* must include in its final decision an amended *negotiating framework* which is:
- (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*.
- (d) If the *AER's* final decision is to refuse to approve the proposed *pricing methodology*, the *AER* must include in its final decision an amended *pricing methodology* which is:
- (1) determined on the basis of the current proposed *pricing methodology*; and
  - (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the *Rules*.

#### **6A.13.2A Out of scope revised documents or late submissions**

On or before making a final decision in relation to the *Transmission Network Service Provider*, the *AER* must include on its website:

- (a) a summary of any revisions to the relevant *Revenue Proposal*, proposed *negotiating framework* or proposed *pricing methodology* that have been made in a revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* that do not comply with clause 6A.12.3(b), together with an indication of the amount of that information;
- (b) a summary of any submissions on the draft decision in relation to the *Transmission Network Service Provider* or the revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* that were made by the *Transmission Network Service Provider*

and that contain information that the *Transmission Network Service Provider* was entitled to incorporate in the revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* under clause 6A.12.3(b), together with an indication of the amount of that information;

- (c) a summary of any submissions that purport to be made by the *Transmission Network Service Provider* under clause 6A.12.4 but are in respect of matters other than those specified by the *AER* under that clause, together with an indication of the length of those submissions; and
- (d) a summary of any submissions on the draft decision in relation to the *Transmission Network Service Provider* or the revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* that were made by the *Transmission Network Service Provider* after the time for making the submissions has expired, together with an indication of the length of those submissions.

For the purpose of this clause 6A.13.2A, revisions or submissions may be summarised by cross-referencing to the relevant *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* or submissions.

### **6A.13.3 Notice of final decision**

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 final decision; and
- (2) the final decision, including the reasons required to be included in it.

### **6A.13.4 Making of transmission determination**

The *AER* must, as soon as practicable after making its final decision, make the *transmission determination* to which the final decision relates.

## **6A.14 Requirements relating to draft and final decisions**

### **6A.14.1 Contents of decisions**

A draft decision under rule 6A.12 or a final decision under rule 6A.13 is a decision by the *AER*:

- (1) on the *Transmission Network Service Provider's* current *Revenue Proposal* in which the *AER* either approves or refuses to approve:
  - (i) the *total revenue cap* for the provider for the *regulatory control period*;
  - (ii) the *maximum allowed revenue* for the provider for each *regulatory year* of the *regulatory control period*;

- (iii) 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 provider in respect of the *regulatory control period*;
- (iv) 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 provider in respect of the *regulatory control period*; and
- (v) the commencement and length of the *regulatory control period* that has been proposed by the provider,

as set out in the *Revenue Proposal*, setting out the reasons for the decision;

- (2) in which the *AER* either:

- (i) acting in accordance with clause 6A.6.7(c), accepts the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*; or
- (ii) acting in accordance with clause 6A.6.7(d), does not accept the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*, in which case the *AER* must set out its reasons for that decision and an estimate of the total of the *Transmission 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*;

- (3) in which the *AER* either:

- (i) acting in accordance with clause 6A.6.6(c) or clause 6A.6.6(c1), accepts the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*; or
- (ii) acting in accordance with clause 6A.6.6(d), does not accept the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*, in which case the *AER* must set out its reasons for that decision and an estimate of the total of the *Transmission 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*;

- (4) in which the *AER* determines:

- (i) whether each of the *proposed contingent projects* (if any) described in the current *Revenue Proposal* are *contingent projects* for the purposes of the *revenue determination* in which case the decision must clearly identify each of those *contingent projects*;

- (ii) the capital expenditure that it is satisfied reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*, in the context of each *contingent project* as described in the current *Revenue Proposal*;
- (iii) the *trigger events* in relation to each *contingent project* (in which case the decision must clearly specify those *trigger events*); and
- (iv) if the AER determines that such a *proposed contingent project* is not a *contingent project* for the purposes of the *revenue determination*, its reasons for that conclusion, having regard to the requirements of clause 6A.8.1(b);

(5) **[Deleted]**

- (5A) in which the AER determines how any applicable *capital expenditure sharing scheme* or *small-scale incentive scheme* is to apply to the *Transmission Network Service Provider*;
- (5B) on the *allowed rate of return* for each *regulatory year* of the *regulatory control period* in accordance with clause 6A.6.2;
- (5C) on whether the return on debt is to be estimated using a methodology referred to in clause 6A.6.2(i)(2) and, if that is the case, the formula that is to be applied in accordance with clause 6A.6.2(l);
- (5D) on the value of imputation credits as referred to in clause 6A.6.4,
- (5E) on the regulatory asset base as at the commencement of the *regulatory control period* in accordance with clause 6A.6.1 and Schedule 6A.2;
- (5F) 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;

**Note:**

See clause S6A.2.2B.

- (6) on the provider's current proposed *negotiating framework*, in which the AER either approves or refuses to approve the proposed *negotiating framework*, setting out reasons for its decision;
- (7) in which the AER specifies the *Negotiated Transmission Service Criteria* for the *Transmission Network Service Provider*, setting out the reasons for the decision;
- (8) on the *Transmission Network Service Provider's* current proposed *pricing methodology*, in which the AER either approves or refuses to approve that methodology and sets out reasons for its decision; and
- (9) on the additional *pass through events* that are to apply for the *regulatory control period* in accordance with clause 6A.6.9.

### 6A.14.2 Reasons for decisions

- (a) The reasons given by the *AER* for a draft decision under rule 6A.12 or a final decision under rule 6A.13 must set out the basis and rationale of the decision, including:
  - (1) details of the qualitative and quantitative methodologies applied in any calculations and formulae made or used by the *AER* for the purposes of its decision;
  - (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 *Transmission Network Service Provider's* current *Revenue Proposal*; and
    - (ii) if not, the rationale for the adoption of those values;
  - (3) details of any assumptions made by the *AER* in undertaking any material qualitative and quantitative analyses for the purposes of the decision; and
  - (4) reasons for the making of any decisions, the giving or withholding of any approvals, and the exercise of any discretion, as referred to in this Chapter, for the purposes of the decision, such reasons being expressed by reference to the requirements relating to such decisions, approvals or discretions as are contained in this Chapter.
- (b) The *AER* must include in its reasons for a draft decision under rule 6A.12 or a final decision under rule 6A.13 a statement, with supporting reasons, as to the extent to which the roll forward of the regulatory asset base from the previous *regulatory control period* to the commencement of the *regulatory control period* contributes to the achievement of the *capital expenditure incentive objective*.

### 6A.14.3 Circumstances in which matters must be approved or accepted

- (a) This clause set out the circumstances in which the *AER* must approve or accept certain matters for the purposes of a draft decision under rule 6A.12 or a final decision under rule 6A.13. Subject to any provision of this Chapter 6A, if the *AER* is not required to approve or accept such a matter in accordance with this clause, it may, but is not required to, refuse to approve or accept that matter.
- (b) The *AER* must approve:
  - (1) the *total revenue cap* for a *Transmission Network Service Provider* for a *regulatory control period*; and
  - (2) the *maximum allowed revenue* for the *Transmission Network Service Provider* for each *regulatory year* of the *regulatory control period*,

as set out in the current *Revenue Proposal*, if the *AER* is satisfied that:

- (3) those amounts have been properly calculated using the *post-tax revenue model*; and
- (4) those amounts, and any amount required to be calculated, determined or forecast for the purposes of calculating those amounts, have otherwise been calculated, determined or forecast in accordance with the requirements of Part C of this Chapter 6A, (for these purposes, the *AER* is taken to be so satisfied in respect of a particular amount if another provision of this Chapter 6A requires the *AER* to approve or accept that amount)

Nothing in this paragraph (b) is to be taken to require the *AER* to accept the *Transmission Network Service Provider's allowed rate of return* or is to be taken to constrain the *AER* in substituting its forecast or estimate of capital expenditure or operating expenditure in accordance with clauses 6A.13.2(b) or 6A.14.1(2) or (3).

- (c) If a *Transmission Network Service Provider's* revised *Revenue Proposal* submitted under clause 6A.12.3(a) includes:

- (1) an amount of total forecast capital expenditure for the *regulatory control period* that is the same as that accepted or estimated (as the case may be) by the *AER* in a draft decision under rule 6A.12; or
- (2) an amount of total forecast operating expenditure for the *regulatory control period* that is the same as that accepted or estimated (as the case may be) by the *AER* in a draft decision under rule 6A.12,

then, except to the extent that:

- (3) either or both of the following apply:
  - (i) other changes have been made in the revised *Revenue Proposal*; or
  - (ii) the information contained in or accompanying the revised *Revenue Proposal* differs from that contained in or accompanying the previous *Revenue Proposal*; and
- (4) the changes are such that the *AER* is not satisfied as referred to in clauses 6A.6.6(c) or 6A.6.7(c) (as the case may be),

the *AER*, in its final decision, must accept the forecast of required operating expenditure or of required capital expenditure (as the case may be) that is included in the revised *Revenue Proposal*.

- (d) The *AER* must approve:

- (1) the values that are to be attributed to the *performance incentive scheme parameters* for the *service target performance incentive*

*scheme* that is to apply to a *Transmission Network Service Provider* in respect of a *regulatory control period*; and

- (2) the values that are to be attributed to the *efficiency benefit sharing scheme parameters* for the *efficiency benefit sharing scheme* that is to apply to a *Transmission Network Service Provider* in respect of a *regulatory control period*,

as set out in the current *Revenue Proposal*, if the *AER* is satisfied that those values comply with the requirements relating to them set out in the *service target performance incentive scheme* or the *efficiency benefit sharing scheme* (as the case may be).

- (e) The *AER* must approve the commencement and length of the *regulatory control period* as proposed by a *Transmission Network Service Provider* in the provider's current *Revenue Proposal* if the length of the *regulatory control period* as so proposed is 5 *regulatory years*.
- (f) The *AER* must approve a *Transmission Network Service Provider's* current proposed *negotiating framework* if the *AER* is satisfied that the relevant proposed *negotiating framework* meets the requirements set out in clause 6A.9.5(c).
- (g) The *AER* must approve a *Transmission Network Service Provider's* current proposed *pricing methodology* 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*.
- (h) If a *Transmission Network Service Provider's* revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* (as the case may be) submitted under clause 6A.12.3(a):
  - (1) contains the changes required under clause 6A.12.1; or
  - (2) does not contain those changes but otherwise (in the *AER's* view), adequately addresses the matters which prompted the *AER* to require those changes,

then, except to the extent that:

- (3) either or both of the following apply:
  - (i) other changes have been made in the revised *Revenue Proposal*, the revised proposed *negotiating framework* or the revised proposed *pricing methodology*, by the *Transmission Network Service Provider*; or
  - (ii) the information contained in or accompanying the revised *Revenue Proposal*, revised proposed *negotiating framework* or



revised proposed *pricing methodology* differs from that contained in or accompanying the previous *Revenue Proposal*, proposed *negotiating framework* or proposed *pricing methodology* submitted or resubmitted; and

- (4) the changes would justify the AER, in its final decision, in refusing to approve the amounts or values referred to in clause 6A.14.1(5), the proposed *negotiating framework* referred to in clause 6A.13.2(c) or the proposed *pricing methodology* referred to in clause 6A.13.2(d),

the AER's final decision must be to approve those amounts or values, that proposed *negotiating framework* or that proposed *pricing methodology*.

- (i) The AER must only specify criteria as *Negotiated Transmission Service Criteria* for a *Transmission Network Service Provider* in a draft or final decision under rule 6A.12 or 6A.13 if those criteria give effect to and are consistent with the *Negotiated Transmission Services Principles*.

#### **6A.15 Revocation of revenue determination or amendment of pricing methodology for wrong information or error**

- (a) The AER may (but is not required to) revoke a *revenue determination* or amend an existing *pricing methodology* during a *regulatory control period* if it appears to the AER that the *revenue determination* or *pricing methodology* is affected by a material error or deficiency of one or more of the following kinds:
  - (1) a clerical error or an accidental slip or omission;
  - (2) a miscalculation or misdescription;
  - (3) a defect in form; or
  - (4) a deficiency resulting from the provision of false or materially misleading information to the AER.
- (b) If the AER revokes a *revenue determination* under paragraph (a), the AER must make a new *revenue determination* in substitution for the revoked *revenue determination* to apply for the remainder of the *regulatory control period* for which the revoked *revenue determination* was to apply.
- (c) If the AER revokes and substitutes a *revenue determination* under paragraphs (a) and (b), the substituted *revenue determination* must only vary from the revoked *revenue determination* to the extent necessary to correct the relevant error or deficiency.
- (d) If the AER amends a *pricing methodology* under paragraph (a), the amended methodology applies to the setting of prices for the next *financial year* and for the remainder of the relevant *regulatory control period*.

- (e) If the *AER* amends a *pricing methodology* under paragraph (a), the amended methodology must only vary from the existing *pricing methodology* to the extent necessary to correct the relevant error or deficiency.
- (f) The *AER* may only revoke and substitute a *revenue determination* or amend a *pricing methodology* under this rule 6A.15, if it has first consulted with the relevant *Transmission Network Service Provider* and such other persons as it considers appropriate.

## **6A.16 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 for submissions that is made under this Chapter (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*.

## **6A.16A Transmission Confidentiality Guidelines**

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, make and *publish* guidelines (*Transmission Confidentiality Guidelines*).
- (b) The *Transmission Confidentiality Guidelines* must specify the manner in which the *Transmission Network Service Provider* may make confidentiality claims in its *Revenue Proposal* and proposed *pricing methodology*, which may include categories of confidential information by reference to which *Transmission Network Service Providers* must classify any claims of confidentiality in their *Revenue Proposals* and proposed *pricing methodologies*.

- (c) There must be *Transmission Confidentiality Guidelines* in force at all times after the date on which the AER first publishes the *Transmission Confidentiality Guidelines* under these Rules.
- (d) The *Transmission Confidentiality Guidelines* are binding on the AER and each *Transmission Network Service Provider* to which they apply.

## Part F Information Disclosure

### 6A.17 Information disclosure by Transmission Network Service Providers

#### 6A.17.1 Information to be provided to AER

- (a) In this rule 6A.17, '**certified annual statement**' means an annual statement provided by a *Transmission Network Service Provider* under this rule 6A.17 and certified in accordance with the *information guidelines*.
- (b) A *Transmission Network Service Provider* must submit to the AER, in the manner and form set out in the *information guidelines*, annual statements that:
  - (1) provide a true and fair statement of the financial and operating performance of the *Transmission Network Service Provider*;
  - (2) are certified in accordance with the *information guidelines*; and
  - (3) otherwise comply with the requirements of this clause and the *information guidelines*.
- (c) In addition to the certified annual statements, the AER may require a *Transmission Network Service Provider* to provide, by a date and in the form and manner specified by the AER, any additional information the AER reasonably requires for a purpose set out in paragraph (d).
- (d) The certified annual statements and additional information provided by a *Transmission Network Service Provider* to the AER under this rule 6A.17 may be used by the AER only for the following purposes:
  - (1) to monitor, report on and enforce the compliance of the *Transmission Network Service Provider* with the *total revenue cap* for the *Transmission Network Service Provider* for a *regulatory control period*, the *maximum allowed revenue* for the *Transmission Network Service Provider* for each *regulatory year*, and any requirements that are imposed on the *Transmission Network Service Provider* under a *transmission determination*;
  - (2) to monitor, report on and enforce compliance with the provider's *Cost Allocation Methodology*;

- (3) as an input regarding the financial, economic and operational performance of the *Transmission Network Service Provider*, to inform the *AER's* decision-making for the making of *revenue determinations* or other regulatory controls to apply in future *regulatory control periods*;
  - (4) to monitor and report on the performance of the *Transmission Network Service Provider* under any incentive scheme that applies to the *Transmission Network Service Provider* under clauses 6A.6.5, 6A.6.5A, 6A.7.4 or 6A.7.5; and
  - (5) for the preparation of a *network service provider performance report*.
- (e) The *AER* may request or undertake verification or independent audit of any information sought by it, or provided to it, under this rule 6A.17.

## 6A.17.2 Information Guidelines

### Preparation, publication and amendment of Information Guidelines

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, make and *publish* guidelines (*information guidelines*) that comply with this clause 6A.17.2.
- (b) **[Deleted]**
- (c) The *AER* must *publish* the first *information guidelines* by 28 September 2007, and there must be *information guidelines* in force at all times after that date.

### Contents of information guidelines

- (d) The *information guidelines* must provide for the manner and form in which *Transmission Network Service Providers* must submit certified annual statements to the *AER*, including the date each year by which those statements must be submitted to the *AER*.
- (e) The *information guidelines* may only require the inclusion in the certified annual statements of:
  - (1) such information as the *AER* reasonably requires for a purpose set out in clause 6A.17.1(d);
  - (2) information on the amount of each instance, during the relevant reporting period, of a reduction under clause 6A.26.1(c) in the prices payable by a *Transmission Customer* for *prescribed TUOS services* or *prescribed common transmission services* provided by the *Transmission Network Service Provider*;
  - (3) information on each instance, during the relevant reporting period, of a reduction in the prices payable by a *Transmission Customer* for *prescribed TUOS services* or *prescribed common transmission*

*services* (or both) that were recovered under rule 6A.26 from other *Transmission Customers* for *prescribed TUOS services* or *prescribed common transmission services*; and

- (4) 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 subparagraph (2) or (3) is confidential information.
- (f) **[Deleted]**.
- (g) The *information guidelines* may specify the information that must be submitted with any application made under clause 6A.26.2(b), including:
  - (1) details of the circumstances in which a discount amount has arisen and of the calculation of the proposed recovery amount; and
  - (2) the information necessary to substantiate how the requirements of clause 6A.26.1(f) are satisfied.
- (h) The *information guidelines* may provide, for the purposes of rule 6A.27, rule 6A.28 and rule 6A.29, for:
  - (1) the information that each *Transmission Network Service Provider* must supply to a *Co-ordinating Network Service Provider* and other *Transmission Network Service Providers* for the purposes of cost allocation under the provider's *pricing methodology*, including:
    - (i) electrical parameters for each optimised element of the *network* and the *network* configuration;
    - (ii) hourly *load* data for each exit point for the *survey period*;
    - (iii) hourly *generation* data for each entry point for the *survey period*;
    - (iv) *voltage* control arrangements and *voltage* profile; and
    - (v) the *ASRR* for the categories of *prescribed TUOS services* and *prescribed common transmission services*.
  - (2) the derivation of hourly *load* data from *metering data* by the aggregation of the *energy meter* reading figures in respect of each hour.
- (i) The *information guidelines* are binding on the AER and each *Transmission Network Service Provider* to which they apply.

**6A.18 [Deleted]**

**Part G Cost Allocation**

**6A.19 Cost allocation**

**6A.19.1 Duty to comply with Cost Allocation Methodology**

*A Transmission Network Service Provider must comply with the Cost Allocation Methodology that has been approved in respect of that Transmission Network Service Provider from time to time by the AER under this rule 6A.19.*

**6A.19.2 Cost Allocation Principles**

The following principles constitute the *Cost Allocation Principles*:

- (1) the detailed principles and policies used by a *Transmission Network Service Provider* to allocate costs between different categories of *transmission 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 *transmission 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 Methodology*;
- (4) any *Cost Allocation Methodology* which is used, the reasons for using that methodology 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 *Transmission Ring-Fencing Guidelines*;
- (7) costs which have been allocated to *prescribed transmission services* must not be reallocated to *negotiated transmission services*; and
- (8) costs which have been allocated to *negotiated transmission services* may be reallocated to *prescribed transmission services* to the extent they satisfy the principle referred to in subparagraph (3).

**Note:**

The *Cost Allocation Guidelines* are required by clause 6A.19.3 to give effect to and be consistent with, the *Cost Allocation Principles*.

### **6A.19.3 Cost Allocation Guidelines**

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, make and *publish* guidelines (the *Cost Allocation Guidelines*) relating to the preparation by a *Transmission Network Service Provider* of its *Cost Allocation Methodology*.
- (b) The *Cost Allocation Guidelines* must give effect to and be consistent with the *Cost Allocation Principles*.
- (c) Without limiting the generality of paragraph (b), the *Cost Allocation Guidelines* may specify:
  - (1) the format of a *Cost Allocation Methodology*;
  - (2) the detailed information that is to be included in a *Cost Allocation Methodology*;
  - (3) the categories of *transmission services* which are to be separately addressed in a *Cost Allocation Methodology*, such categories being determined by reference to the nature of those services, the persons to whom those services are provided or such other factors as the *AER* considers appropriate; and
  - (4) the allocation methodologies which are acceptable and the supporting information that is to be included in relation to such methodologies in a *Cost Allocation Methodology*.
- (d) The *Cost Allocation Guidelines* are binding on the *AER* and each *Transmission Network Service Provider* to which they apply.
- (e) The *AER* must *publish* the first *Cost Allocation Guidelines* by 28 September 2007, and there must be *Cost Allocation Guidelines* in force at all times after that date.

#### **6A.19.4 Cost Allocation Methodology**

- (a) Each *Transmission Network Service Provider* must submit to the AER for its approval a document setting out its proposed *Cost Allocation Methodology*:
  - (1) by no later than 28 March 2008; or
  - (2) in the case of an entity that is not a *Transmission Network Service Provider* as at 28 September 2007, within 6 months of being required to do so by the AER.
- (b) The *Cost Allocation Methodology* proposed by a *Transmission Network Service Provider* must give effect to and be consistent with the *Cost Allocation Guidelines*.
- (c) The AER may approve or refuse to approve a *Cost Allocation Methodology* submitted under paragraph (a).
- (d) The AER must notify the relevant *Transmission Network Service Provider* of its decision to approve or refuse to approve the *Cost Allocation Methodology* submitted to it under paragraph (a) within 6 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 *Transmission Network Service Provider*, amend the *Cost Allocation Methodology* submitted to it, in which case the *Cost Allocation Methodology* as so amended will be taken to be approved by the AER.
- (f) A *Transmission Network Service Provider* may amend its *Cost Allocation Methodology* from time to time but the amendment only comes into effect:
  - (1) 6 months after the submission of the amendment, together with detailed reasons for the amendment, to the AER (unless the AER approves that amendment earlier, in which case it will come into effect when that earlier approval is given); and
  - (2) subject to such changes to the *Cost Allocation Methodology* (including the proposed amendment) as the AER notifies to the *Transmission Network Service Provider* within that period, being changes that the AER reasonably considers are necessary or desirable as a result of that amendment.
- (g) A *Transmission Network Service Provider* must amend its *Cost Allocation Methodology* where the amendment is required by the AER to take into account any change to the *Cost Allocation Guidelines*, but the amendment only comes into effect:
  - (1) on the date that the AER approves that amendment, or 3 months after the submission of the amendment, whichever is the earlier; and



- (2) subject to such changes to the *Cost Allocation Methodology* (including the proposed amendment) as the *AER* notifies to the *Transmission Network Service Provider* within that period, being changes that the *AER* reasonably considers are necessary or desirable as a result of that amendment.
- (h) A *Transmission Network Service Provider* must maintain a current copy of its *Cost Allocation Methodology* on its website.

## Part H Transmission Consultation Procedures

### 6A.20 Transmission consultation procedures

- (a) This rule 6A.20 applies wherever the *AER* or the *AEMC* is required to comply with the *transmission consultation procedures*. For the avoidance of doubt, the *transmission consultation procedures*:
  - (1) are separate from, and do not apply to, the process for changing the *Rules* under Part 7 of the *National Electricity Law*; and
  - (2) are separate from, and (where they are required to be complied with) apply to the exclusion of, the *Rules consultation procedures* under rule 8.9.
- (b) If the *AER* or the *AEMC* is required to comply with the *transmission consultation procedures* in preparing, making, developing, reviewing, amending or replacing any guidelines, methodologies, models, schemes, tests or values, it must *publish*:
  - (1) the proposed guideline, methodology, model, scheme, test, value or amendment;
  - (2) an explanatory statement that sets out the provision of the *Rules* under or for the purposes of which the guideline, methodology, model, scheme, test, value or amendment is proposed to be prepared, made or developed or is required to be reviewed, and the reasons for the proposed guideline, methodology, model, scheme, test, value or amendment; and
  - (3) an invitation for written submissions on the proposed guideline, model, scheme, test, value or, or the review, as the case may be.
- (c) The invitation must allow no less than 30 *business days* for the making of submissions, and the *AER* or the *AEMC* is not required to consider any submission made pursuant to that invitation after this time period has expired.
- (d) The *AER* or the *AEMC* may publish such issues, consultation and discussion papers, and hold such conferences and information sessions, in relation to the proposed guideline, methodology, model, scheme, test, value or amendment, or the review, as it considers appropriate.

- (e) Within 80 *business days* of *publishing* the documents referred to in paragraph (b), the *AER* or the *AEMC* must *publish*:
  - (1) its final decision on the guideline, methodology model, scheme, test, value, amendment or review that sets out:
    - (i) the guideline, model, methodology, scheme, test, value or amendment (if any);
    - (ii) the provision of the *Rules* under which or for the purposes of which the guideline, methodology, model, scheme, test, value or amendment is being prepared, made or developed or is being reviewed;
    - (iii) the reasons for the guideline, model, methodology, scheme, test, value or amendment; and
    - (iv) the reasons for the outcome of any review; and
  - (2) notice of the making of the final decision on the guideline, methodology, model, scheme, test, value, amendment or review.
- (f) Subject to paragraph (c), the *AER* or the *AEMC* must, in making its final decision referred to in paragraph (e)(1), consider any submissions made pursuant to the invitation for submissions referred to in paragraph (b)(3), and the reasons referred to in paragraph (e)(1)(iii) or (iv) must include:
  - (1) a summary of each issue raised in those submissions that the *AER* or the *AEMC* reasonably considers to be material; and
  - (2) the *AER*'s or the *AEMC*'s response to each such issue.
- (g) The *AER* or the *AEMC* may extend the time within which it is required to *publish* its final decision if:
  - (1) the consultation involves issues of unusual complexity or difficulty; or
  - (2) the extension of time has become necessary because of circumstances beyond the control of the *AER* or the *AEMC*.

## **Part I Ring-Fencing Arrangements for Transmission Network Service Providers**

### **6A.21 Transmission Ring-Fencing Guidelines**

#### **6A.21.1 Compliance with Transmission Ring-Fencing Guidelines**

All *Transmission Network Service Providers* including *Market Network Service Providers*, must comply with the *Transmission Ring-Fencing Guidelines* prepared in accordance with clause 6A.21.2 as from the time that any *jurisdictional*

*derogation* from this rule 6A.21 ceases to apply in respect of the *participating jurisdiction* in which the *Transmission Network Service Provider* is located.

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

- (a) Transmission ring-fencing guidelines must be developed by the *AER* in consultation with 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 *prescribed transmission services* and 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 to 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*, *AEMO* and other *interested parties*, and such consultation must be otherwise in accordance with the *transmission consultation procedures*.
- (e) To avoid doubt, despite paragraphs (a), (b), (c) and (d) above and clause 6A.19.2(6), the *Transmission Ring-Fencing Guidelines* must not include any provisions which deal with or require the allocation of costs as between:
  - (1) *prescribed transmission services* and *negotiated transmission services*; or
  - (2) *categories of prescribed transmission services*,in a manner which is inconsistent with the *Cost Allocation Principles*, the *Cost Allocation Guidelines*, the *Pricing Principles for Prescribed Transmission Services* or the *pricing methodology guidelines*.

## **Part J Prescribed Transmission Services - Regulation of Pricing**

### **6A.22 Terms used in Part J**

#### **6A.22.1 Aggregate annual revenue requirement (AARR)**

For the purposes of this Part J, the *aggregate annual revenue requirement (AARR)* for *prescribed transmission services* provided by a *Transmission Network Service Provider*, is the *maximum allowed revenue* referred to in clause 6A.3.1 adjusted:

- (1) in accordance with clause 6A.3.2;
- (2) by subtracting the operating and maintenance costs expected to be incurred in the provision of *prescribed common transmission services*; and
- (3) by any allocation as agreed between *Transmission Network Service Providers* in accordance with clause 6A.29.3.

#### **6A.22.2 Annual service revenue requirement (ASRR)**

For the purposes of this Part J, the *annual service revenue requirement (ASRR)* for a *Transmission Network Service Provider* is the portion of the AARR for *prescribed transmission services* provided by a *Transmission Network Service Provider* that is allocated to each *category of prescribed transmission services* for that *Transmission Network Service Provider* and that is calculated by multiplying the AARR by the *attributable cost share* for that category of services in accordance with the principles in clause 6A.23.2.

#### **6A.22.3 Meaning of attributable cost share**

- (a) For a *Transmission Network Service Provider* for a *category of prescribed transmission services*, the *attributable cost share* for that *Transmission Network Service Provider* for that category of services must, subject to any

adjustment required or approved, under this Part, substantially reflect the ratio of:

- (1) the costs of the *transmission system* assets directly attributable to the provision of that *category of prescribed transmission services*; to
  - (2) the total costs of all the *Transmission Network Service Provider's transmission system* and any other *transmission system* assets directly attributable to the provision of *prescribed transmission services*.
- (b) The costs of the *transmission system* assets referred to in paragraph (a) refers to optimised replacement cost or to an accepted equivalent to optimised replacement cost that is referable to values contained in the accounts of the *Transmission Network Service Provider*.

#### **6A.22.4 Meaning of attributable connection point cost share**

- (a) For a *Transmission Network Service Provider* for *prescribed entry services* and *prescribed exit services*, the *attributable connection point cost share* for that *Transmission Network Service Provider* for each of those categories of services must substantially reflect the ratio of:
- (1) the costs of the *transmission system* assets directly attributable to the provision of *prescribed entry services* or *prescribed exit services*, respectively, at a *transmission network connection point*; to
  - (2) the total costs of all the *Transmission Network Service Provider's transmission system* assets directly attributable to the provision of *prescribed entry services* or *prescribed exit services*, respectively.
- (b) The costs of the *transmission system* assets referred to in paragraph (a) refers to optimised replacement cost or to an accepted equivalent to optimised replacement cost that is referable to values contained in the accounts of the *Transmission Network Service Provider*.

### **6A.23 Pricing Principles for Prescribed Transmission Services**

#### **6A.23.1 Introduction**

- (a) This rule 6A.23 sets out the principles that constitute the *Pricing Principles for Prescribed Transmission Services*.
- (b) The *Pricing Principles for Prescribed Transmission Services* are given effect by *pricing methodologies*.

#### **6A.23.2 Principles for the allocation of the aggregate annual revenue requirement**

The *aggregate annual revenue requirement* for *prescribed transmission services* provided by a *Transmission Network Service Provider* is to be allocated in accordance with the following principles:

- (a) The *AARR* for a *Transmission Network Service Provider* must be allocated to each *category of prescribed transmission services* in accordance with the *attributable cost share* for each such category of services.
- (b) This allocation results in the *annual service revenue requirement (ASRR)* for that category of services.
- (c) The allocation of the *AARR* must be such that:
  - (1) every portion of the *AARR* is allocated; and
  - (2) the same portion of the *AARR* is not allocated more than once.
- (d) Where, as a result of the application of the *attributable cost share*, a portion of the *AARR* would be attributable to more than one category of *prescribed transmission services*, that *attributable cost share* is to be adjusted and applied such that any costs of a *transmission system* asset that would otherwise be attributed to the provision of more than one category of *prescribed transmission services*, is allocated as follows:
  - (1) to the provision of *prescribed TUOS services*, but only to the extent of the *stand-alone amount* for that *category of prescribed transmission services*;
  - (2) if any portion of the costs of a *transmission system* asset is not allocated to *prescribed TUOS services*, under subparagraph (1), that portion is to be allocated to *prescribed common transmission services*, but only to the extent of the *stand-alone amount* for that *category of prescribed transmission services*;
  - (3) if any portion of the costs of a *transmission system* asset is not attributed to *prescribed transmission services* under subparagraphs (1) and (2), that portion is to be attributed to *prescribed entry services* and/or *prescribed exit services*.

### **6A.23.3 Principles for the allocation of the annual service revenue requirement to connection points**

The allocation of the *annual service revenue requirement* of a *Transmission Network Service Provider* for each *category of prescribed transmission services* to the relevant *connection points* (other than the *connection points* of any *Market Network Service Provider*), and the manner and sequence in which adjustments can be made to those allocations, for the relevant *regulatory year* to which the *maximum allowed revenue* relates, must be in accordance with the following principles:

- (a) The *annual service revenue requirement* for *prescribed TUOS services* is to be allocated between a locational component (*pre-adjusted locational component*) and a non-locational component (*pre-adjusted non-locational component*) either:
  - (1) as to 50% to each component; or

- (2) an alternative allocation to each component, that is based on a reasonable estimate of future *network* utilisation and the likely need for future *transmission* investment, and that has the objective of providing more efficient locational signals to *Market Participants*, *Intending Participants* and end users.
- (b) Subject to paragraph (d), the *pre-adjusted locational component* is to be adjusted by:
  - (1) subtracting any amount estimated as proceeds from *auctions* or any portion of *settlements residue* allocated to the *directional interconnector* which is not the subject of a *SRD agreement* estimated to be receivable by the *Transmission Network Service Provider* from the *connection points* for each relevant *directional interconnector* as referred to in clause 3.18.4, with that amount including an adjustment calculated in accordance with paragraph (f); and
  - (2) adding or subtracting the amount estimated by the *Co-ordinating Network Service Provider* for the *modified load export charge* receivable by or payable to the *Transmission Network Service Provider* under clause 6A.29A.5, with that amount including an adjustment calculated in accordance with paragraph (f),(the *adjusted locational component*).
- (c) If the *adjusted locational component* is a positive amount, it is to be allocated to *transmission network connection points* of *Transmission Customers* on the basis of their proportionate use of the relevant *transmission system* assets. The *CRNP methodology* and the *modified CRNP methodology* are two permitted methodologies to estimate the proportionate use of the relevant *transmission system* assets as referred to in paragraph (b).
- (d) If the *adjusted locational component* is a negative amount, then the *adjusted locational component* will be deemed to be zero and the absolute value of that negative amount is to be subtracted from the *pre-adjusted non-locational component* under subparagraph (e)(1).
- (e) The *pre-adjusted non-locational component* is to be adjusted by:
  - (1) subtracting the absolute value of the amount (if any) referred to in paragraph (d);
  - (2) adding or subtracting any amount for *settlements residue* (not being any *auction* amount referred to in subparagraph (b)(1), but including any amount of *settlements residue* due to *intra-regional loss factors*) estimated to be receivable by or payable to the *Transmission Network Service Provider* in accordance with clause 3.6.5(a)(3);
  - (3) adding or subtracting any adjustment arising as a result of the application of clauses 6A.23.4(c) and (d);

- (4) adding or subtracting any amount arising as a result of the application of prudent discounts (if any) under clauses 6A.26.1(d) to (g); and
  - (5) adding or subtracting any *over-recovery amount* or *under-recovery amount*, with that amount including an adjustment calculated in accordance with paragraph (f),  
  
(the *adjusted non-locational component*).
- (f) The adjustment referred to in subparagraphs (b)(1), (b)(2) and (e)(5) must be calculated as the sum of:
- (1) the difference between:
    - (i) the estimated amount payable or receivable for a service (or component of a service) referred to in subparagraphs (b)(1), (b)(2) and (e)(5) in year  $t - 1$ ; and
    - (ii) the amount actually payable or receivable for that service (or that component of service) in year  $t - 1$ ;
  - (2) the difference between:
    - (i) the actual amount payable or receivable for that service (or that component of service) in year  $t - 2$ ; and
    - (ii) the estimate of the amount payable or receivable for that service (or component of a service) in year  $t - 2$  that was used for the purposes of clause (f)(1)(i) in accordance with the *Co-ordinating Network Service Provider's* or the *Transmission Network Service Provider's* (as the case may be) *pricing methodology* that applied in year  $t - 1$ ; and
  - (3) grossed up on the basis of the *allowed rate of return* as approved by the AER in the relevant *revenue determination* that applies to the *Transmission Network Service Provider* at the time when the further adjustment is to be made.
- (g) For the purposes of paragraph (f):
- |                 |  |
|-----------------|--|
| "year $t$ "     | means the <i>regulatory year</i> in which adjustments are made under paragraph (f).  |
| "year $t - 1$ " | means the <i>regulatory year</i> immediately prior to year $t$ or, where year $t$ is the first year of a <i>regulatory control period</i> , the last <i>regulatory year</i> of the previous <i>regulatory control period</i> . |
| "year $t - 2$ " | means the <i>regulatory year</i> immediately prior to year $t - 1$ or, where year $t$ is the: <ol style="list-style-type: none"><li>(1) first year of a <i>regulatory control period</i>, the</li></ol>                        |



penultimate *regulatory year* of the previous *regulatory control period*; and

- (2) second year of a *regulatory control period*, the last *regulatory year* of the previous *regulatory control period*.
- (h) The *annual service revenue requirement* for *prescribed common transmission services* is to be adjusted by adding the operating and maintenance costs incurred in the provision of those services (to the extent that those costs were subtracted from the *maximum allowed revenue* in accordance with clause 6A.22.1).
- (i) The whole of the *annual service revenue requirement* for *prescribed entry services* is to be allocated to *transmission network connection points* (other than *connection points* of any *Market Network Service Provider*) in accordance with the *attributable connection point cost share* for *prescribed entry services* that are provided by the *Transmission Network Service Provider* at that *connection point*.
- (j) The whole of the *annual service revenue requirement* for *prescribed exit services* is to be allocated to *transmission network connection points* (other than *connection points* of any *Market Network Service Provider*) in accordance with the *attributable connection point cost share* for *prescribed exit services* that are provided by the *Transmission Network Service Provider* at that *connection point*.

#### 6A.23.4 Principles for the recovery of the Annual Service Revenue Requirement as prices

The recovery of the *annual service revenue requirement* for a *Transmission Network Service Provider* as prices for *Transmission Customers* (but not *Market Network Service Providers*) for the relevant *regulatory year* to which the *maximum allowed revenue* relates, must be made in accordance with the following principles:

- (a) The *Transmission Network Service Provider* must have separate prices for:
  - (1) *prescribed TUOS services – adjusted locational component*;
  - (2) *prescribed TUOS services – adjusted non-locational component*;
  - (3) *prescribed common transmission services*;
  - (4) *prescribed entry services*; and
  - (5) *prescribed exit services*.
- (b) Prices for recovering the *prescribed TUOS services - adjusted locational component*:

- (1) must be based on demand at times of greatest utilisation of the *transmission network* by *Transmission Customers* and for which *network* investment is most likely to be contemplated;
- (2) subject to subparagraph (3) below, must not change by more than 2% on a *load* weighted average basis for the relevant *region* compared with the previous *regulatory year*; and
- (3) are not subject to the limitation in subparagraph (2):
  - (i) to the extent that the change in prices relate to the adjusted *modified load export charge* as referred to in clause 6A.23.3(b)(2); or
  - (ii) if, since the commencement of the previous *regulatory year*:
    - (A) the *load* at the *connection point* has materially altered;
    - (B) in connection with that alteration, the *Transmission Customer* requested a renegotiation of its *connection agreement* with the *Transmission Network Service Provider*; and
    - (C) the *AER* approved the change.
- (c) If, in the case of an increase in prices for recovering the *prescribed TUOS services - adjusted locational component*, the application of paragraph (b)(2) would result in a shortfall for the *prescribed TUOS services - adjusted locational component*, any shortfall may be recovered by increasing the *prescribed TUOS services - non-locational component* in clause 6A.23.3(e)(3).
- (d) If, in the case of a decrease in prices for recovering the *prescribed TUOS services - adjusted locational component*, the application of paragraph (b)(2) would result in a surplus for the *prescribed TUOS services - adjusted locational component*, any surplus must be offset by decreasing the *prescribed TUOS services - non-locational component* in clause 6A.23.3(e)(3).
- (e) Prices for recovering the *prescribed TUOS services - adjusted non-locational component* must be on a *postage-stamp basis*.
- (f) Prices for recovering *prescribed common transmission services* must be on a *postage-stamp basis*.
- (g) Prices for recovering *prescribed entry services* and *prescribed exit services* must be a fixed annual amount.

## **6A.24 Pricing methodology**

### **6A.24.1 Pricing methodologies generally**

- (a) In making a *transmission determination* under Part E of this Chapter 6A, the AER must include a decision to approve a proposed *pricing methodology* as part of that *transmission determination*, in accordance with that Part.
- (b) A *pricing methodology* is a methodology, formula, process or approach that, when applied by a *Transmission Network Service Provider* (or a *Co-ordinating Network Service Provider* on behalf of *Transmission Network Service Providers* within a region);
  - (1) allocates the *aggregate annual revenue requirement* for *prescribed transmission services* provided by the *Transmission Network Service Provider* to each *category of prescribed transmission services*;
  - (2) provides for the manner and sequence of adjustments to the *annual service revenue requirement*;
  - (3) allocates the *annual service revenue requirement* to *transmission network connection points* (other than *connection points* of any *Market Network Service Provider*); and
  - (4) determines the structure and recovery of prices for each *category of prescribed transmission services* under 6A.23.4(a).
- (b1) In addition to complying with any other requirements under this Chapter 6A, the *pricing methodology* of a *Transmission Network Service Provider* that is the *Co-ordinating Network Service Provider* for a *region* must provide for:
  - (1) the allocation of the AARR for *prescribed transmission services* provided by *Transmission Network Service Providers* within that *region*, including any allocation of the AARR as agreed between *Transmission Network Service Providers* in accordance with clause 6A.29.3;
  - (2) the calculation of *modified load export charges* consistent with clause 6A.29A.2;
  - (3) the allocation of *modified load export charges*:
    - (i) receivable by other *Co-ordinating Network Service Providers* in *interconnected regions*; and
    - (ii) payable to other *Co-ordinating Network Service Providers* in *interconnected regions*,to each *Transmission Network Service Provider* within its *region* under clause 6A.29A.5; and

- (4) the allocation of proceeds from *auctions* receivable by or payable to the *Transmission Network Service Provider* in its *region* as referred to in clause 6A.23.3(b)(1).
- (c) The *pricing methodology* proposed by a *Transmission Network Service Provider* and approved by the AER in accordance with Part E of this Chapter 6A must:
  - (1) give effect to and be consistent with the *Pricing Principles for Prescribed Transmission Services*; and
  - (2) comply with the requirements of, and contain or be accompanied by such information as is required by, the *pricing methodology guidelines* made for that purpose under rule 6A.25.
- (d) A *Transmission Network Service Provider* must comply with the *pricing methodology* approved by the AER as part of a *transmission determination* that applies to that *Transmission Network Service Provider*, and any other applicable requirements in the *Rules*, when the *Transmission Network Service Provider* is setting the prices that may be charged for the provision of *prescribed transmission services*.
- (d1) Where this Chapter provides that a matter is to be determined in accordance with the *pricing methodology* of a *Transmission Network Service Provider* who is the *Co-ordinating Network Service Provider* for a *region*, then no other *pricing methodology* applies in relation to that matter.
- (e) Subject to clause 6A.24.3, a *pricing methodology* applies for the duration of the relevant *regulatory control period*.
- (f) Subject to rule 6A.15, a *pricing methodology* may not be amended during the *regulatory control period*.

#### **6A.24.2 Publication of pricing methodology and transmission network prices**

A *Transmission Network Service Provider* must publish:

- (a) a current copy of its *pricing methodology* on its website;
- (b) if that *Transmission Network Service Provider* is also a *Co-ordinating Network Service Provider*, details of all *modified load export charges* to apply for the following *financial year* in accordance with the *pricing methodology guidelines* by 15 March each year; and
- (c) the prices for each of the *categories of prescribed transmission services* to apply for the following *financial year* by 15 May each year.

#### **6A.24.3 Basis for setting prices pending approval of pricing methodology**

- (a) This clause 6A.24.3 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 by a date that is 3 months prior to the commencement of the first *financial year* that a methodology referred to in subparagraph (1) would, if approved, apply (the **first pricing year**); and
  - (3) the *Transmission Network Service Provider* is reasonably required to commence the process of setting prices for the first pricing year.
- (b) Despite clause 6A.24.1(d), a *Transmission Network Service Provider* must set prices for the first pricing year 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*;
  - (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);
  - (3) if there is no 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) Despite the AER subsequently approving a *pricing methodology* for a *Transmission Network Service Provider*:
  - (1) the approved *pricing methodology* applies to the setting of prices for the year after the first pricing year and for the remainder of the relevant *regulatory control period*; and
  - (2) the *Transmission Network Service Provider* is not required to adjust, reverse or recompense any amounts to *Transmission Network Users* or their customers in connection with charges for services established pursuant to this clause 6A.24.3.

#### **6A.24.4 Basis for setting prices pending approval of maximum allowed revenue**

- (a) This clause 6A.24.4 applies where:
  - (1) a *Transmission Network Service Provider* has submitted or resubmitted a *Revenue Proposal* under clause 6A.10.1, 6A.11.2 or 6A.12.3;

- (2) the *AER* has not made a final decision on that *Revenue Proposal* under rule 6A.13 by a date that is 5 months prior to the commencement of the first *financial year* that a *Revenue Proposal* referred to in subparagraph (1) would, if approved, apply (the **first pricing year**); and
  - (3) the *Transmission Network Service Provider* is reasonably required to commence the process of setting prices for the first pricing year referred to in subparagraph (2)
- (b) Despite any other applicable requirements in the *Rules*, a *Transmission Network Service Provider* may set prices for the first pricing year referred to in clause 6A.24.4(a)(2) in accordance with:
  - (1) in the case where the *AER* has made a draft decision in which it proposes to approve the proposed *maximum allowed revenue* for the first pricing year referred to in clause 6A.24.4(a)(2), that proposed *maximum allowed revenue* amount; or
  - (2) in the case where the *AER* has made a draft decision in which it has refused to approve the proposed *maximum allowed revenue* for the first pricing year referred to in clause 6A.24.4(a)(2), the *maximum allowed revenue* for the first pricing year that the *AER* has proposed for that amount in the draft decision made under clause 6A.12.1.
- (c) For the avoidance of doubt, any *over-recovery amount* or *under-recovery amount* arising from the application of this clause 6A.24.4 is to be treated in accordance with clause 6A.23.3(c)(2)(iii).

## **6A.25 Pricing methodology guidelines for prescribed transmission services**

### **6A.25.1 Making and amending of pricing methodology guidelines**

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, make and publish guidelines (the *pricing methodology guidelines*) relating to the preparation by a *Transmission Network Service Provider* of a proposed *pricing methodology*.
- (b) The *pricing methodology guidelines* must give effect to, and be consistent with, the *Pricing Principles for Prescribed Transmission Services*.
- (c) The *AER* must publish the first *pricing methodology guidelines* by 31 October 2007 and there must be *pricing methodology guidelines* in force at all times after that date.
- (d) In the event of an inconsistency between the *Rules* and the *pricing methodology guidelines*, the *Rules* prevail to the extent of that inconsistency.

- (e) The *pricing methodology guidelines* are binding on the *AER* and each *Transmission Network Service Provider* to which they apply.

## 6A.25.2 Contents of pricing methodology guidelines

The *pricing methodology guidelines* must specify or clarify:

- (a) the information that is to accompany a proposed *pricing methodology* being information that is necessary to allow the *AER* to form a view as to whether the proposed methodology is consistent with and gives effect to, the *Pricing Principles for Prescribed Transmission Services* and the requirements of this Part J;
- (b) permitted pricing structures for recovery of the locational component of providing *prescribed TUOS services* under clause 6A.23.4(e), having regard to:
  - (1) the desirability of consistent pricing structures across the *NEM*; and
  - (2) the role of pricing structures in signaling efficient investment decisions and *network* utilisation decisions;
- (c) in relation to prices set on a *postage-stamp basis*, permissible postage stamping structures for the prices for *prescribed common transmission services* and the recovery of the adjusted non-locational component of providing *prescribed TUOS services* having regard to:
  - (1) the desirability of a consistent approach across the *NEM*, particularly for *Transmission Customers* that have operations in multiple *participating jurisdictions*; and
  - (2) the desirability of signaling to actual and potential *Transmission Network Users* efficient investment decisions and *network* utilisation decisions;
- (d) the types of *transmission system assets* that are directly attributable to each *category of prescribed transmission services*, having regard to the desirability of consistency of cost allocation across the *NEM*;
- (e) those parts (if any) of a proposed *pricing methodology* or the information accompanying it, that will not be publicly disclosed without the consent of the *Transmission Network Service Provider*;
- (f) those parts (if any) of a proposed *pricing methodology* or the information accompanying it, that will not be publicly disclosed without the consent of the *Transmission Network Service Provider*; and
- (g) the matters which *Transmission Network Service Providers* that are also *Co-ordinating Network Service Providers* must include in their *pricing methodologies* in accordance with clause 6A.24.1(b1) for:

- (1) the allocation of the *AARR* for *prescribed transmission services* provided by *Transmission Network Service Providers* within that region, including any allocation of the *AARR* as agreed between *Transmission Network Service Providers* in accordance with clause 6A.29.3;
- (2) the calculation of *modified load export charges* consistent with clause 6A.29A.2; and
- (3) the allocation of *modified load export charges*:
  - (i) receivable by other *Co-ordinating Network Service Providers* in *interconnected regions*; and
  - (ii) payable to other *Co-ordinating Network Service Providers* in *interconnected regions*,to each *Transmission Network Service Provider* within its region under clause 6A.29A.5.

## 6A.26 Prudent discounts

### 6A.26.1 Agreements for prudent discounts for prescribed transmission services

- (a) Subject to this clause 6A.26.1, the prices for *prescribed transmission services* that are determined in accordance with the *pricing methodology* of a *Transmission Network Service Provider*, are the maximum prices that a *Transmission Network Service Provider* is entitled to charge for the provision of the relevant *prescribed transmission services*.
- (b) A *Transmission Network Service Provider* may, but is not required to, agree with a *Transmission Customer* (the **beneficiary**) to charge lower prices for *prescribed TUOS services* and *prescribed common transmission services* provided to that beneficiary, than the prices determined in accordance with the provider's *pricing methodology*.
- (c) Where a *Transmission Customer* requests a *Transmission Network Service Provider* to charge that user reduced charges for *prescribed TUOS services* or *prescribed common transmission services* (**reduced charges**), the *Transmission Network Service Provider* must negotiate in good faith;
- (d) Subject to this clause 6A.26.1, a *Transmission Network Service Provider* who agrees to charge a beneficiary reduced charges may recover the difference between the revenue that would be recovered by the application of the maximum prices referred to in paragraph (a) and the reduced charges (the **discount amount**) from *Transmission Customers* through charges for either or both:
  - (1) the *adjusted non-locational component*; and



(2) *prescribed common transmission services,*

in accordance with the *Co-ordinating Network Service Provider's* or *Transmission Network Service Provider's pricing methodology* (as the case may be).

- (e) A *Transmission Network Service Provider* may recover up to 70 per cent of a discount amount through the charges referred to in subparagraphs (d)(1) and (2).
- (f) A *Transmission Network Service Provider* may recover greater than 70 percent of the discount amount through either or both the charges referred to in subparagraphs (d)(1) and (2) if;
  - (1) the discount amount is no larger than that necessary to prevent the charges referred to in subparagraphs (d)(1) and (2) altering the beneficiary's behaviour to the point of adopting the most attractive alternative in place of the course of action the beneficiary would have adopted if no such charges were levied; and
  - (2) the giving of the discount would not place other customers of the *Transmission Network Service Provider* in a worse position than if the discount was not offered.
- (g) Where for any reason the *Transmission Network Service Provider* does not recover the proportion of a discount amount that the *Transmission Network Service Provider* is entitled to recover from other *Transmission Customers* under this clause in the *financial year* in which the reduced charges apply, the *Transmission Network Service Provider* may recover the difference through charges to *Transmission Customers* for the *adjusted non-locational component* of *prescribed TUOS services* to apply in a subsequent *financial year*, in accordance with the *Transmission Network Service Provider's pricing methodology*.

#### **6A.26.2 Application to AER for approval of proposed prudent discount amounts**

- (a) This clause applies where a *Transmission Network Service Provider* has agreed or proposes to agree, to reduced charges in accordance with clause 6A.26.1 and seeks to recover greater than 70 per cent of the discount amount through the charges referred to in clause 6A.26.1(d) to its other *Transmission Customers* (the **proposed recovery amount**).
- (b) A *Transmission Network Service Provider* may apply to the AER for approval to recover the proposed recovery amount.
- (c) A *Transmission Network Service Provider* seeking approval must submit to the AER a written application in accordance with any relevant requirements of the *information guidelines* in force under clause 6A.17.2.

- (d) If the *AER* determines that the requirements of clause 6A.26.1(f) are satisfied, the *AER* may approve the recovery of the proposed recovery amount, taking into account the matters referred to in paragraph (i).
- (e) If the *AER* determines that the requirements of clause 6A.26.1(f) are not satisfied, the *AER* may refuse the recovery of the proposed recovery amount, and must set out its reasons.
- (f) If the *AER* does not make a decision referred to in paragraph (d) or (e) within 60 *business days* from the date it receives the *Transmission Network Service Provider's* application and accompanying evidence under paragraph (c), then, on the expiry of that period, the *AER* is taken to have approved the recovery of the proposed recovery amount.
- (g) A *Transmission Network Service Provider* must provide the *AER* with such information as the *AER* requires for the purpose of making a determination under paragraphs (d) or (e) within the time specified by the *AER* in a notice provided to the provider by the *AER* for that purpose.

### **Consultation**

- (h) Before making a determination under paragraph (d) or (e), the *AER* may consult with the relevant *Transmission Network Service Provider* and such other persons as the *AER* considers appropriate, on any matters arising out of an application to recover a proposed recovery amount as the *AER* considers appropriate.

### **Relevant factors**

- (i) In making a determination under paragraph (d) or (e), the *AER* must take into account:
  - (1) the matters and proposals set out in the application referred to in paragraph (c);
  - (2) the requirements of clause 6A.26.1(f); and
  - (3) any other factors the *AER* considers relevant.
- (j) If the *AER* approves or is taken to approve recovery of the proposed recovery amount under paragraph (d) or (f), that approval 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, except where the *Transmission Network Service Provider* has provided information in its application that was materially false or misleading.
- (k) Where a *Transmission Network Service Provider* agrees to charge reduced charges in accordance with clause 6A.26.1, and no approval is granted under this clause 6A.26.2, the *AER* must review the discount amount in the course of making a subsequent *revenue determination* for that provider, and if the recovery of any part of the discount amount does not comply with clause 6A.26.1(f), the *AER* may adjust (with interest) the *total revenue cap*

of the *Transmission Network Service Provider* for the following *regulatory control period* in respect of the total amount that has been earned by the *Transmission Network Service Provider* and does not satisfy the requirements under the *Rules*.

## **6A.27 Billing Process**

This rule describes the manner in which *Transmission Network Users* are billed for *prescribed transmission services* and how payments for those services are made.

### **6A.27.1 Billing for prescribed transmission services**

- (a) For each *connection point* on its *transmission networks*, a *Transmission Network Service Provider* must calculate the *transmission service charges* payable by *Transmission Network Users* in accordance with the *transmission service prices* published under clause 6A.24.2.
- (b) A *Transmission Network Service Provider* must issue a bill to *Transmission Network Users* for *prescribed transmission services*.
- (c) Where the billing 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 and, where the previous year's billing quantities are unavailable or no longer suitable, nominated quantities may be used as agreed between the parties.
- (d) Where charges are to be determined for *prescribed transmission services* from *metering data*, these charges must be based on kW or kWh obtained from the *metering data* managed by AEMO.

#### **6A.27.1A Billing of modified load export charges**

This rule does not apply to the process of calculating and billing *modified load export charges*, which is regulated under rule 6A.29A.

### **6A.27.2 Minimum information to be provided in network service bills**

- (a) The following is the minimum information that must be provided with a bill for a *connection point* issued by a *Transmission Network Service Provider* directly to a *Transmission Network User*:
  - (1) the *connection point* identifier;
  - (2) the dates on which the *billing period* starts and ends;
  - (3) the identifier of the published *transmission service price* from which the *connection point* charges are calculated; and

- (4) measured quantities, billed quantities, agreed quantities, prices and amounts charged for each component of the total *transmission service* account.
- (b) In addition to the minimum information requirements set out in paragraph (a), a bill for a *connection point* issued by a *Transmission Network Service Provider* directly to a *Transmission Customer* must separately identify, for the total amount levied in relation to *prescribed TUOS services* in the *billing period* for that *connection point* each of the following components:
  - (1) charges for the *adjusted locational component* and the *adjusted non-locational component* of *prescribed TUOS services*; and
  - (2) charges for *prescribed common transmission services*.
- (c) In addition to the minimum information requirements in paragraph (a), a bill for a *connection point* issued by a *Transmission Network Service Provider* directly to a *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.

#### **6A.27.3 Obligation to pay charges for prescribed transmission services**

A *Transmission Network User* must pay charges for *prescribed transmission services* properly charged to it and billed in accordance with the *pricing methodology* of the relevant *Transmission Network Service Provider* by the date specified in the bill.

#### **6A.27.4 Payments between Transmission Network Service Providers in the same region**

- (a) A *Transmission Network Service Provider* must pay other *Transmission Network Service Providers* within the same *region* an amount of revenue equal to that which it is estimated it will collect during the following *regulatory year* or *financial year* (as the case may be), as charges for *prescribed transmission services* for the use of *transmission systems* owned by those other *Transmission Network Service Providers*.
- (b) The amount of any financial transfer under paragraph (a) must be determined by the relevant *Co-ordinating Network Service Provider* and paid in equal monthly instalments.
- (c) [Deleted]

#### **6A.27.5 Calculation of financial transfers between Transmission Network Service Providers in the same region**

- (a) If the *prescribed transmission use of system* revenue allocation and price and charge calculation under the *pricing methodology* of a *Transmission Network Service Provider* result in the allocation of some of a *Transmission Network Service Provider's* revenue to a *Transmission Customer* in relation

to a *connection point* with another *Network Service Provider* in the same *region* then financial transfers between *Network Service Providers* must be made in accordance with paragraph (b).

- (b) Financial transfers referred to in paragraph (a) must be determined by the *Co-ordinating Network Service Provider* for the relevant *region* as a fixed annual amount for the next *financial year*. The *survey period* for this allocation is the most recent full *financial year* for which operating data is available.

## **6A.28 Prudential Requirements**

This rule sets out the arrangements by which *Transmission Network Service Providers* may minimise financial risks associated with investment in *transmission network* assets.

### **6A.28.1 Prudential Requirements for prescribed transmission services**

A *Transmission Network Service Provider* may require a *Transmission Network User* to establish prudential requirements for either or both *connection services* and *transmission use of system services*. These prudential requirements may take the form of, but need not be limited to, capital contributions, pre-payments or financial guarantees.

### **6A.28.2 Capital contribution or prepayment for a specific asset**

Where the *Transmission Network Service Provider* is required to construct specific assets to provide *connection service* or *transmission use of system service* to a *Transmission Network User*, the provider may require that user to make a capital contribution or prepayment for all or part of the cost of the new assets installed and any contribution made must be taken into account in the determination of *transmission service* prices applicable to that user.

### **6A.28.3 Treatment of past capital contributions**

- (a) The treatment of capital contributions for *connection service* and/or *transmission use of system service* made prior to 13 December 1998, by *Transmission Network Users* must be in accordance with any contractual arrangements with the relevant *Transmission Network Service Providers* applicable at that time.
- (b) Where contractual arrangements referred to in paragraph (a) are not in place, the treatment of past capital contributions for *connection service* and/or *transmission use of system service* must be negotiated by the *Transmission Network Service Provider* and the *Transmission Network User* and, if a dispute arises and cannot be resolved, the matter must be referred to the *AER*.

## 6A.29 Multiple Transmission Network Service Providers

### 6A.29.1 Multiple Transmission Network Service Providers within a region

- (a) If *prescribed transmission services* within a *region* are provided by more than one *Transmission Network Service Provider*, the appointing *Transmission Network Service Providers* (the **appointing provider**) within that *region* must appoint a *Co-ordinating Network Service Provider* for that *region*. The *Co-ordinating Network Service Provider* is responsible for:
- (1) the allocation of all relevant AARR within that *region*, including any allocation of the AARR as agreed between *Transmission Network Service Providers* in accordance with clause 6A.29.3;
  - (2) the calculation of *modified load export charges* and any adjustments to the charges in accordance with the *Rules* payable by *Co-ordinating Network Service Providers* in *interconnected regions*; and
  - (3) the allocation of *modified load export charges* and any adjustments to the charges in accordance with the *Rules* payable or receivable to or from *Co-ordinating Network Service Providers* in *interconnected regions* to each *Transmission Network Service Provider* within its *region*.
- (b) Each *Transmission Network Service Provider* must determine the AARR for its own *transmission system* assets which are used to provide *prescribed transmission services* within each *region*.
- (c) To make the allocation referred to in paragraph (a), the *Co-ordinating Network Service Provider* must use the total AARR of all *Transmission Network Service Providers* providing *prescribed transmission services* within the relevant *region*.
- (d) The *Co-ordinating Network Service Provider* is responsible for making the allocation referred to in paragraph (a), in accordance with its *pricing methodology*, in relation to *Transmission Network Users' and Transmission Network Service Providers' transmission network connection points* located within the *region* and an appointing provider is not required to address the matters specified in rule 6A.24.1(b)(1) when preparing its *pricing methodology*.
- (e) Each *Transmission Network Service Provider* within a *region* must promptly provide information reasonably requested by the *Co-ordinating Network Service Provider* for that *region* to enable the *Co-ordinating Network Service Provider* to properly perform its functions under this Part J.
- (f) The *Co-ordinating Network Service Provider* must provide sufficient information to an appointing *Transmission Network Service Provider* to enable that provider:
- (1) to understand the basis for the allocation referred to in paragraphs (a) and (d); and

- (2) to prepare its *pricing methodology* and replicate the pricing allocation.

### **6A.29.2 Single Transmission Network Service Provider within a region**

If *prescribed transmission services* within a *region* are provided by only one *Transmission Network Service Provider*, that *Transmission Network Service Provider* is responsible for allocation of the AARR within that *region* and must liaise with the *Transmission Network Service Provider* similarly responsible in any other *interconnected regions*.

### **6A.29.3 Allocation over several regions**

- (a) *Transmission Network Service Providers* responsible for the allocation of the AARR within a *region* may agree with one or more other such providers for *interconnected regions* to undertake the allocations of AARR as one allocation over all of those *regions*.
- (b) To make an allocation over several *regions*, the sum of the AARR of all *Transmission Network Service Providers* providing *prescribed transmission services* within those *regions* must be used.

### **6A.29A Modified load export charges**

This rule sets out the arrangements for the calculation, invoicing and payment of *modified load export charges*.

#### **6A.29A.1 Single Transmission Network Service Provider in a Region**

For the purposes of this rule if *prescribed transmission services* within a *region* are provided by only one *Transmission Network Service Provider* then references in this rule to a *Co-ordinating Network Service Provider* is to be read as a reference to that *Transmission Network Service Provider*.

#### **6A.29A.2 Calculation of the modified load export charges**

- (a) A *Co-ordinating Network Service Provider* for a *region* must calculate the *modified load export charge* payable to it by the *Co-ordinating Network Service Provider* for each *interconnected region* in respect of the following *financial year*, by:
  - (1) calculating the amount that is 50% of the *annual service revenue requirement* for *prescribed TUOS services* for that *financial year* in the calculating *Co-ordinating Network Service Provider's region*;
  - (2) adjusting that amount by subtracting any amount estimated to be receivable by *Transmission Network Service Providers* in the calculating *Co-ordinating Network Service Provider's region* as proceeds from *auctions* or any portion of *settlements residue* (as referred to in clause 6A.23.3(b)(1));

- (3) allocating the adjusted amount calculated under subparagraph (2) to the *connection points* of *Transmission Customers* in its *region* and to *Transmission Network Services Providers* interconnected to its *region* (as if those *connection points* were also *connection points* of *Transmission Customers*) on the basis of their proportionate use of *transmission system* assets. The *MLEC CRNP Methodology* is the only permitted methodology for estimating the proportionate use of the relevant *transmission system* assets for the purposes of this paragraph (3); and
  - (4) determining the *modified load export charge* to be recovered from the relevant *Co-ordinating Network Service Provider* as the amount allocated in accordance with subparagraph (3), to the *connection points* of *Transmission Network Services Providers* in *interconnected regions* that is based on demand at times of greatest utilisation of the *transmission network* and for which *network* investment is most likely to be contemplated.
- (b) The *MLEC CRNP methodology* is the only permitted methodology for estimating the proportionate use of the relevant *transmission system* assets as referred to in subparagraph (a)(1).

### 6A.29A.3 Calculation of adjustments to the modified load export charge

A *Co-ordinating Network Service Provider* for a *region* must calculate adjustments to the *modified load export charge* amount payable to it by the *Co-ordinating Network Service Provider* for each *interconnected region* in respect of the following *financial year*, in accordance with clause 6A.23.3.

### 6A.29A.4 Billing the modified load export charge

- (a) The *Co-ordinating Network Service Provider* for a *region* must issue a monthly bill in accordance with paragraph (b) to the *Co-ordinating Network Service Provider* for each *interconnected region* for the *modified load export charge* (including any adjustment made to it in accordance with the *Rules*) payable to it by that *Co-ordinating Network Service Provider*.
- (b) The bill referred to in paragraph (a) must:
  - (1) set out the total annual estimated *modified load export charge* payable by the *Co-ordinating Network Service Provider*;
  - (2) contain reasonable details of the calculation of the *modified load export charge*; and
  - (3) be issued as equal monthly instalments.
- (c) A *Co-ordinating Network Service Provider* must promptly pay any amounts properly calculated as owing by it and billed under paragraph (b).



- (d) Subject to paragraph (b), *Co-ordinating Network Service Providers* may agree to such terms and conditions for billing as they consider appropriate.
- (e) Each *Transmission Network Service Provider* whose *transmission network* is located in the *region* of the *Co-ordinating Network Service Provider* referred to in clause 6A.29A.2 must provide that *Co-ordinating Network Service Provider* with such information as the *Co-ordinating Network Service Provider* reasonably requires to estimate *modified load export charges*.

#### **6A.29A.5 Allocation and billing process where multiple Transmission Network Service Providers in a Region**

Where there is more than one *Transmission Network Service Provider* in a *region*:

- (a) the *Co-ordinating Network Service Provider* for that *region* must allocate any amounts receivable by or payable to it for *modified load export charges* under this rule to each *Transmission Network Service Provider* in its *region* in accordance with its *pricing methodology*;
- (b) the *Co-ordinating Network Service Provider* must issue a bill to each *Transmission Network Service Provider* in its *region* the net amount of *modified load export charges* allocated as payable or receivable by the *Co-ordinating Network Service Provider* under paragraph (a) including reasonable details of the calculation of those amounts;
- (c) a *Transmission Network Service Provider* must pay any amounts properly charged and billed to it by a *Co-ordinating Network Service Provider* under paragraph (b); and
- (d) the *Co-ordinating Network Service Provider* must pay any amounts properly allocated as payable to a *Transmission Network Service Provider* under paragraph (b).

### **Part K Commercial arbitration for disputes about terms and conditions of access for prescribed and negotiated transmission services**

#### **6A.30 Commercial arbitration for prescribed and negotiated transmission services**

This Part K applies to any dispute which may arise between a *Transmission Network Service Provider* (a **provider**) and a *Service Applicant* (an **applicant**) as to *terms and conditions of access* as referred to in clause 6A.1.2, for the provision of *prescribed transmission services* or for the provision of *negotiated transmission services* (a *transmission services access dispute*).

### **6A.30.1 Notification of transmission services dispute**

- (a) A provider or an applicant may notify the *AER* in writing that a *transmission services access dispute* exists.
- (b) On receiving a notification under paragraph (a), the *AER* must give notice in writing of the dispute to the other party to the dispute.
- (c) A provider or an applicant who has given notice of a dispute under paragraph (a) may withdraw notification of the dispute at any time by written notice to the *AER* and the other party to the dispute.
- (d) If the notification of a dispute is withdrawn under paragraph (c), it is taken for the purposes of this clause 6A.30.1 to never have been given.

### **6A.30.2 Appointment of commercial arbitrator**

- (a) On receiving a notification under clause 6A.30.1(a), the *AER* must request the provider and the applicant, by a time specified by the *AER*, to nominate to the *AER* two persons each for appointment as the *commercial arbitrator* to determine the *transmission services access dispute*. The provider and applicant may make the nominations.
- (b) As soon as practicable after the expiry of the time specified by the *AER* under paragraph (a), the *AER* must appoint:
  - (1) one of the persons (if any) nominated to the *AER* by the provider or the applicant under paragraph (a); or
  - (2) if neither the provider or the applicant nominate any such person within the time specified by the *AER* under paragraph (a) or all of the persons so nominated do not qualify for appointment under paragraph (d) or are not eligible for appointment under paragraph (e), a person determined by the *AER*,

as the *commercial arbitrator* to determine the dispute, and must refer the dispute to that *commercial arbitrator*.

- (c) A decision of the *AER* as to the appointment of the *commercial arbitrator* is final and binding on the provider and the applicant.
- (d) The *AER* may only appoint a person as the *commercial arbitrator* if that person is experienced or trained in dispute resolution techniques.
- (e) A person is not eligible for appointment as the *commercial arbitrator* if that person has any interest that may conflict with, or which may be seen to conflict with, the impartial resolution of the dispute. Where the person who is appointed as the *commercial arbitrator* becomes aware of such conflict after that person commences the hearing of the dispute, the person must advise the parties to that effect.
- (f) Where:

- (1) the provider or the applicant believes that the person appointed as the *commercial arbitrator* has an interest which may conflict with the impartial resolution of the dispute; or
- (2) the person appointed as the *commercial arbitrator* discloses the existence of such an interest,

the person must not continue to hear and determine the dispute, except with the written consent of the provider and the applicant.

### **6A.30.3 Procedures of commercial arbitrator**

- (a) The *commercial arbitrator* may give to the parties such directions as it considers necessary:
  - (1) for the proper conduct of the proceedings, including in relation to the provision of documents and information to the other party and the making of oral and written submissions;
  - (2) relating to the use and disclosure of information obtained from the other party to the dispute (including a direction to keep information confidential); and
  - (3) in relation to the participation (if any) of legal representatives of the parties in the proceedings.
- (b) The *commercial arbitrator* must observe the rules of procedural fairness, but is not bound by the rules of evidence and may inform itself in any manner it thinks fit.

### **6A.30.4 Powers of commercial arbitrator in determining transmission services access disputes**

- (a) In determining a *transmission services access dispute* in relation to the *terms and conditions of access* for the provision of *prescribed transmission services* the *commercial arbitrator* must apply:
  - (1) in relation to price, the *pricing methodology* of the relevant *Transmission Network Service Provider* approved by the AER under Part E and Part J of this Chapter 6A of the *Rules*;
  - (2) in relation to other terms and conditions, Chapters 4, 5 and this Chapter 6A of the *Rules*; and
  - (3) in relation to all *terms and conditions of access* (including price) the decision of AEMO or the AER where those decisions relate to those terms and conditions and are made under Chapters 4, 5 and this Chapter 6A of the *Rules*.
- (b) In determining a *transmission services access dispute* in relation to the *terms and conditions of access* for the provision of a *negotiated transmission service* the *commercial arbitrator* must apply:

- (1) in relation to price (including *access charges*) for the provision of that service by the provider, the *Negotiated Transmission Service Criteria* that are applicable to that dispute, in accordance with the relevant *transmission determination*;
- (2) in relation to other terms and conditions, the *Negotiated Transmission Service Criteria* that are applicable to that dispute, and Chapters 4, 5 and this Chapter 6A of the *Rules*; and
- (3) in relation to all *terms and conditions of access* (including price) the decision of AEMO or the AER where those decisions relate to those terms and conditions and are made under Chapters 4, 5 and this Chapter 6A of the *Rules*.

and must have regard:

- (4) to the relevant *negotiating framework* prepared by the *Transmission Network Service Provider* under clause 6A.9.5 and approved by the AER.
- (c) In determining a *transmission services access dispute* in relation to the *terms and conditions of access* for the provision of *negotiated transmission services* a *commercial arbitrator* may:
- (1) have regard to other matters which the *commercial arbitrator* considers relevant.
  - (2) hear evidence or receive submissions from AEMO and *Transmission Network Users* notified and consulted under the *Transmission Network Service Provider's negotiating framework*.
- (d) In determining a *transmission services access dispute* in relation to the *terms and conditions of access* for the provision of *prescribed transmission services* a *commercial arbitrator* may:
- (1) have regard to other matters which the *commercial arbitrator* considers relevant.
  - (2) hear evidence or receive submissions from AEMO in relation to *power system security* matters and from *Transmission Network Users* who may be adversely affected.

#### **6A.30.5 Determination of transmission services access disputes**

- (a) Subject to paragraph (c), the *commercial arbitrator* must determine the dispute as quickly as possible, and in any case it must do so within 30 *business days* after the dispute is referred to the *commercial arbitrator*.
- (b) The determination of the *commercial arbitrator*:

- (1) may direct the provision of *prescribed transmissions services* and *negotiated transmission services* in accordance with Chapters 4, 5 and this Chapter 6A of the *Rules*;
- (2) may specify, for a *negotiated transmission service*, a price or charge in such a way that it is or is to be adjusted over time.

**Note:**

An adjustment as referred to in subparagraph (2) may, for example, be appropriate where the cost of providing the *negotiated transmission service* to a *Service Applicant* changes because the assets used to provide that service are subsequently used to provide a service to another person and the payment for the service by that other person enables the *Transmission Network Service Provider* to recoup some of those costs from that other person.

- (c) The *commercial arbitrator* may extend the period referred to in paragraph (a) if the provider and the applicant so agree in writing.
- (d) The *commercial arbitrator* may at any time terminate the proceedings without making a decision if it considers that:
  - (1) the dispute is misconceived or lacking in substance;
  - (2) the notification of the dispute to the *AER* under clause 6A.30.1(a) was vexatious; or
  - (3) the party who notified the dispute to the *AER* under clause 6A.30.1(a) has not negotiated in good faith or has notified the dispute prematurely or unreasonably.
- (e) The *commercial arbitrator* must terminate the proceedings without making a decision if at any time, whether on application by the provider or the applicant or otherwise, the arbitrator determines that the *transmission service* is capable of being provided on a genuinely competitive basis by a person other than the *Transmission Network Service Provider* or an entity which is associated with the provider.

#### **6A.30.6 Costs of dispute**

- (a) The fees and costs of the *commercial arbitrator* must be borne equally by the provider and the applicant unless:
  - (1) paragraph (b) applies; or
  - (2) otherwise agreed between the provider and the applicant.
- (b) The costs of determining the dispute (including the legal costs of either of the parties) may be allocated by the *commercial arbitrator* for payment as between the parties as part of any determination.
- (c) In deciding to allocate costs against one of the parties to the dispute, the *commercial arbitrator* may have regard to any relevant matters including

(but not limited to) whether the conduct of that party unreasonably prolonged or escalated the dispute or otherwise increased the costs of resolving the dispute.

#### **6A.30.7 Enforcement of agreement or determination and requirement for reasons**

- (a) Where the provider and the applicant reach agreement (whether or not the matter is before a *commercial arbitrator*), the parties may execute a written agreement recording their resolution of that dispute.
- (b) The *commercial arbitrator* must give its decision determining the dispute, together with its reasons for that decision, in writing and must provide a copy of its determination:
  - (1) to the provider and to the applicant; and
  - (2) (except to the extent that it contains confidential information) to the *AER* for publication.
- (c) An agreement that is executed under paragraph (a) and a determination of the *commercial arbitrator* under paragraph (b) are binding on the provider and the applicant, and any failure to comply with such an agreement or determination is a breach of the *Rules* in respect of which the *AER* may take action in accordance with the *National Electricity Law*.

#### **6A.30.8 Miscellaneous**

- (a) To the extent permitted by law, a person who is appointed as a *commercial arbitrator* is not liable for any loss, damage or liability suffered or incurred by any person as a consequence of any act or omission of that person which was done in good faith in connection with the dispute.
- (b) A person who is appointed as a *commercial arbitrator* may, before acting in relation to the dispute, require the parties to the dispute (or any one of them) to execute a release and indemnity in relation to any loss, damage or liability that that person would, but for the release or indemnity, suffer or incur as a consequence of any act or omission done in good faith in connection with the dispute.

## **Part L Annual Benchmarking Report**

### **6A.31 Annual Benchmarking Report**

- (a) The *AER* must prepare and *publish* a *network service provider performance report* (an *annual benchmarking report*) the purpose of which is to describe, in reasonably plain language, the relative efficiency of each *Transmission Network Service Provider* in providing *prescribed transmission services* over a 12 month period.

- (b) Clause 8.7.4 (excluding clause 8.7.4(a)) applies in respect of the preparation of an *annual benchmarking report*.
- (c) Subject to paragraphs (d) and (e), the *AER* must *publish* an *annual benchmarking report* at least every 12 months.
- (d) The first *annual benchmarking report* must be *published* by 30 September 2014.
- (e) The second *annual benchmarking report* must be *published* by 30 November 2015.

## **Schedule 6A.1 Contents of Revenue Proposals**

### **S6A.1.1 Information and matters relating to capital expenditure**

A *Revenue 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 6A.6.7 and identifies the forecast capital expenditure by reference to well accepted categories such as:
  - (i) asset class (eg. *transmission lines, substations* etc); or
  - (ii) category driver (eg. *regulatory obligations or requirements, replacement, reliability, net market benefit, business support* etc),and identifies, in respect of proposed material assets:
  - (iii) the location of the proposed asset;
  - (iv) the anticipated or known cost of the proposed asset; and
  - (v) the categories of *transmission services* which are to be provided by the proposed asset;
- (2) the methodology used for developing the capital expenditure forecast;
- (3) the forecasts of load growth relied upon to derive the capital expenditure forecasts and the methodology 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 *Transmission 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 and separately identifying for each such *regulatory year*:

- (i) margins paid or expected to be paid by the *Transmission Network Service Provider* in circumstances where those margins are referable to arrangements that do not reflect arm's length terms; and
  - (ii) expenditure that should have been treated as operating expenditure in accordance with the policy submitted under paragraph (9) for that *regulatory year*;
- (7) an explanation of any significant variations in the forecast capital expenditure from historical capital expenditure;
  - (8) any non-network alternatives considered by the *Transmission Network Service Provider*; and
  - (9) the policy that the *Transmission Network Service Provider* applies in capitalising operating expenditure.

### **S6A.1.2 Information and matters relating to operating expenditure**

A *Revenue 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 6A.6.6 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 *transmission services* to which that forecast expenditure relates;
- (2) the methodology used for developing the operating expenditure forecast;
- (3) the forecasts of key variables relied upon to derive the operating expenditure forecast and the methodology used for developing those forecasts of key variables;
- (4) the methodology used for determining the cost associated with planned maintenance programs designed to improve the performance of the relevant *transmission system* for the purposes of any *service target performance*



*incentive scheme* that is to apply to the *Transmission 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 *Transmission Network Service Provider*;
- (7) operating expenditure for each of the first three *regulatory years* of the current *regulatory control period*, and the expected operating expenditure for each of the last two *regulatory years* of that *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; and
- (9) any non-network alternatives considered by the *Transmission Network Service Provider*.

### **S6A.1.3 Additional information and matters**

A *Revenue 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) the values that the *Transmission Network Service Provider* proposes are to be attributed to the *performance incentive scheme parameters* for the purposes of the application to the *Transmission Network Service Provider* of any *service target performance incentive scheme* that has been specified in a *framework and approach paper* and that applies in respect of the relevant *regulatory control period*, and an explanation of how the values proposed to be attributed to those parameters comply with any requirements relating to them set out in that scheme;
- (3) the values that the provider proposes are to be attributed to the *efficiency benefit sharing scheme parameters* for the purposes of the application to the *Transmission Network Service Provider* of any *efficiency benefit sharing scheme* that has been specified in a *framework and approach paper* that applies in respect of the relevant *regulatory control period*, and an explanation of how the values proposed to be attributed to those parameters comply with any relevant requirements set out in that scheme;
- (3A) a description, including relevant explanatory material, of how the *Transmission Network Service Provider* proposes any *capital expenditure sharing scheme* that has been specified in a *framework and approach paper* that applies in respect of the forthcoming *revenue determination* should apply to it;
- (3B) a description, including relevant explanatory material, of how the *Transmission Network Service Provider* proposes any *small-scale incentive*

*scheme* that has been specified in a *framework and approach paper* that applies in respect of the forthcoming *revenue determination* should apply to it;

- (4) the provider's calculation of:
  - (i) the estimated *total revenue cap* for it for the relevant *regulatory control period*; and
  - (ii) the *maximum allowed revenue* for it for each *regulatory year* of the relevant *regulatory control period*,

using the *post-tax revenue model* referred to in rule 6A.5, together with:

- (iii) details of all amounts, values and other inputs used by the *Transmission Network Service Provider* for that purpose;
  - (iv) a demonstration that any such amounts, values and other inputs comply with the relevant requirements of Part C of Chapter 6A; and
  - (v) an explanation of the calculation of the amounts referred to in subparagraphs (i) and (ii) and of the amounts, values and inputs referred to in subparagraph (iii);
  - (vi) where one of those amounts, values or inputs is the *allowed rate of return*, details of any departure from the *Rate of Return Guidelines* in calculating that *allowed rate of return* and the reasons for that departure;
- (4A) the *Transmission Network Service Provider's* calculation of the proposed return on equity, return on debt and *allowed rate of return*, for each *regulatory year* of the *regulatory control period*, in accordance with clause 6A.6.2, including any departure from the methodologies set out in the *Rate of Return Guidelines* and the reasons for that departure;
- (4B) if the *Transmission Network Service Provider* proposes that the return on debt for a *regulatory year* of the *regulatory control period* is to be determined using the methodology referred to in clause 6A.6.2(i)(2), the formula it proposes should be applied in accordance with clause 6A.6.2(l);
- (4C) the *Transmission Network Service Provider's* proposed value of imputation credits as referred to in clause 6A.6.4;
- (5) the provider's calculation of the regulatory asset base for the relevant *transmission system* for each *regulatory year* of the relevant *regulatory control period* using the *roll forward model* referred to in clause 6A.6.1, together with:
  - (i) details of all amounts, values and other inputs used by the *Transmission Network Service Provider* for that purpose;

- (ii) a demonstration that any such amounts, values and other inputs comply with the relevant requirements of Part C of Chapter 6A; 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);
- (6) **[Deleted]**;
- (7) the depreciation schedules nominated by the *Transmission Network Service Provider* for the purposes of clause 6A.6.3, which categorise the relevant assets for these purposes by reference to well accepted categories such as:
  - (i) asset class (eg *transmission lines* and *substations*); or
  - (ii) category driver (eg *regulatory obligations or requirements*, replacement, *reliability*, net market benefit, and business support),and also by location, together with:
  - (iii) details of all amounts, values and other inputs used by the *Transmission Network Service Provider* to compile those depreciation schedules;
  - (iv) a demonstration that those depreciation schedules conform with the requirements set out in clause 6A.6.3(b); and
  - (v) an explanation of the calculation of the amounts, values and inputs referred to in subparagraph (iii);
- (8) the X factors nominated by the *Transmission Network Service Provider* for each *regulatory year* of the relevant *regulatory control period* for the purposes of clause 6A.6.8(a), together with a demonstration that those X factors comply with the requirements set out in clause 6A.6.8(b) of the *Rules*;
- (9) the commencement and length of the *regulatory control period* proposed by the *Transmission Network Service Provider*; and
- (10) if the *Transmission Network Service Provider* is seeking a determination by the AER that a *proposed contingent project* is a *contingent project* for the purposes of the relevant *revenue determination*:
  - (i) a description of the *proposed contingent project*, including reasons why the *Transmission Network Service Provider* considers the project should be accepted as a *contingent project* for the *regulatory control period*;
  - (ii) a forecast of the capital expenditure which the *Transmission Network Service Provider* considers is reasonably required for the purpose of undertaking the *proposed contingent project*;

- (iii) the methodology used for developing that forecast and the key assumptions that underlie it;
- (iv) information that demonstrates that the undertaking of the *proposed contingent project* is reasonably required in order to achieve one or more of the *capital expenditure objectives*;
- (v) information that demonstrates that the *proposed contingent capital expenditure* for the *proposed contingent project* complies with the requirements set out in clause 6A.8.1(b)(2) ; and
- (vi) the *trigger events* which are proposed in relation to the *proposed contingent project* and an explanation of how each of those conditions or events addresses the matters referred to in clause 6A.8.1(c).

## **Schedule 6A.2 Regulatory Asset Base**

### **S6A.2.1 Establishment of opening regulatory asset base for a regulatory control period**

#### **(a) Application of this clause**

This clause S6A.2.1:

- (1) applies to the establishment of the value of the regulatory asset base for a *transmission 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 *transmission system* as at the beginning of a *regulatory control period* where the *transmission system* was not immediately before that time the subject of a *revenue determination*.

#### **(b) Roll forward model to comply with this clause**

The *roll forward model* referred to in clause 6A.6.1 must provide for those values to be established in accordance with the requirements of clauses S6A.2.1, S6A.2.2 and S6A.2.3.

#### **(c) Transmission systems of specific providers**

- (1) In the case of a *transmission system* owned, controlled or operated by one of the following *Transmission Network Service Providers* as at 16 February 2006, the value of the regulatory asset base for that *transmission system* as at the beginning of that first *regulatory year* must be determined by rolling forward the regulatory asset base for that *transmission system*, as set out in the table below, in accordance with this schedule:

Transmission Network Service Provider	Regulatory Asset Base (\$m)
EnergyAustralia	635.6 (as at 1 July 2004)
TransGrid	3,012.76 (as at 1 July 2004)
Powerlink	As per transitional revenue determination in accordance with clause 11.6.12
ElectraNet	823.75 (as at 1 January 2003)
Transend	603.6 (as at 31 December 2003)
SP AusNet	1,835.60 (as at 1 January 2003)
Murraylink Transmission Company	102.96 (as at 1 October 2003)
Directlink	116.68 (as at 1 July 2005)

(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.

(d) **Other transmission systems**

- (1) This paragraph (d) applies to a *transmission system* not referred to in paragraphs (c) or (e), when *prescribed transmission services* that are provided by means of, or in connection with, that system are to be regulated under a *revenue determination*.
- (2) The value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of the first *regulatory control period* for the relevant *Transmission Network Service Provider* is the prudent and efficient value of the assets that are used by the *Transmission Network Service Provider* to provide those *prescribed transmission services* (but only to the extent that they are used to provide such services), as determined by the *AER*. In determining this value, the *AER* must have regard to the matters referred to in clause S6A.2.2.

- (3) The value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of any subsequent *regulatory control period* must be determined by rolling forward the value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of the first *regulatory control period* in accordance with this schedule.

(e) **Former Market Network Services**

- (1) This paragraph (e) applies to a *transmission system* where any services provided by means of, or in connection with, that *transmission system* are determined to be *prescribed transmission services* under clause 2.5.2(c).
- (2) The value of the regulatory asset base for that *transmission system*, as at the beginning of the first *regulatory year* of the first *regulatory control period* for which those services are to be regulated under a *revenue determination*, is the amount that is determined by the *AER* as the lesser of:
  - (i) the prudent and efficient value of the assets that are used by the relevant *Transmission Network Service Provider* to provide those prescribed services (but only to the extent they are used to provide such services), such value being determined by the *AER* having regard to the matters referred to in clause S6A.2.2; and
  - (ii) the sum of:
    - (A) the net present value of the revenue that it is expected would be earned by the *Transmission Network Service Provider* from the provision of those services, over the remaining life of the assets that are used by the provider to provide those services, if those services had not been determined to be *prescribed transmission services*; and
    - (B) to the extent that such market benefit is not included in the expected revenue referred to in clause S6A.2.1(e)(2)(ii)(A), the net present value of the market benefit to *Registered Participants* of the services being determined to be *prescribed transmission services* compared to being continued to be treated as services that are not *prescribed transmission services*,

reduced by the net present value of the total operating expenditure over the remaining life of the *transmission system* which the *AER* considers to be reasonably required in order to achieve the *operating expenditure objectives*.

For the purposes of clause S6A.2.1(e)(2)(ii)(B), the net present value of the market benefit is the present value of the market benefit less the present value of costs, as those terms are defined for the purposes of

*the regulatory investment test for distribution or regulatory investment test for transmission* (as the case may be).

- (3) The value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of any subsequent *regulatory control period* must be determined by rolling forward the value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of the first *regulatory control period* in accordance with this schedule.

(f) **Method of adjustment of value of regulatory asset base**

Except as otherwise provided in paragraph (c), (d) or (e) and subject to paragraph (g), the value of the regulatory asset base for a *transmission 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 *transmission 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 must be:
  - (i) increased by the amount of all capital expenditure incurred during the previous control period, including any capital expenditure determined for that period under clause 6A.8.2(e)(1)(i) in relation to *contingent projects* where the *revenue determination* has been amended by the AER in accordance with clause 6A.8.2(h) (regardless of whether such capital expenditure is above or below the forecast capital expenditure for the period that is adopted for the purposes of the *transmission determination* (if any) for that period); and
  - (ii) reduced by the amount of any capital expenditure that has been recovered by way of a pass through under clause 6A.7.2 or clause 6A.7.3 where the amount of that capital expenditure would otherwise have been included in the value of the regulatory asset base.
- (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, including any capital expenditure in relation to *contingent projects* where the *total revenue cap* has been amended by the AER in accordance with clause 6A.8.2(h).
- (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 *prescribed transmission services* in accordance with the *Cost Allocation Methodology* for the relevant *Transmission Network Service Provider*.
- (5) The previous value of the regulatory asset base must be reduced by the amount of depreciation of the regulatory asset base during the previous control period, calculated in accordance with the rates and methodologies allowed in the *transmission determination* (if any) 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 control period.
- (7) The previous value of the regulatory asset base must be reduced by the value of any asset where the *AER* determines that the value of that asset should be removed in accordance with clause S6A.2.3.
- (8) Without prejudice to the application of any other provision of this paragraph (f), the previous value of the regulatory asset base may be increased by the inclusion of:
  - (i) past capital expenditure that has not been included in that value because that capital expenditure was incurred in connection with the provision of services that are not *prescribed transmission services*, and in these circumstances, such capital expenditure must only be included to the extent the asset in respect of which that capital expenditure was incurred is subsequently used for the provision of *prescribed transmission services*; and
  - (ii) past capital expenditure that has not been included in that value, but only to the extent that such past capital expenditure:
    - (A) relates to an asset that is used for the provision of *prescribed transmission services*;
    - (B) is considered by the *AER* to be reasonably required in order to achieve one or more of the *capital expenditure objectives*;
    - (C) is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the



*Cost Allocation Methodology* for the relevant *Transmission Network Service Provider*; and

(D) has not otherwise been recovered.

- (g) The previous value of the regulatory asset base must be reduced by any amount determined by the *AER* in accordance with clause S6A.2.2A(f), (i) or (j).

### **S6A.2.2 Prudency and efficiency of capital expenditure**

In determining the prudency or efficiency of capital expenditure under clause S6A.2.1(d)(2) or S6A.2.1(e)(2), the *AER* must have regard to:

- (1) the need to provide a reasonable opportunity for the relevant *Transmission Network Service Provider* to recover the efficient costs of complying with all applicable *regulatory obligations or requirements* associated with the provision of *prescribed transmission services*;
- (2) the need to provide effective incentives to the *Transmission Network Service Provider* to promote economic efficiency in the provision of *prescribed transmission services*;
- (3) whether the relevant project in respect of which capital expenditure was made was evaluated against, and satisfied, the *regulatory investment test for distribution* or *regulatory investment test for transmission* (as the case may be);
- (4) whether the *Transmission Network Service Provider* undertook the capital expenditure in a manner consistent with good business practice and so as to practicably achieve the lowest sustainable cost of delivering the *prescribed transmission services* to be provided as a consequence of that capital expenditure;
- (5) the desirability of minimising investment uncertainty for the *Transmission Network Service Provider*; and
- (6) the need to provide incentives to the *Transmission Network Service Provider* to avoid undertaking inefficient capital expenditure.

In determining the prudency or efficiency of capital expenditure the *AER* must only take into account information and analysis that the provider could reasonably be expected to have considered or undertaken at the time that it undertook the relevant capital expenditure.

### **S6A.2.2A Reduction for inefficient past capital expenditure**

- (a) Prior to making a decision on the regulatory asset base for a *transmission system* as required by clause 6A.14.1(5E), the *AER* may determine under this clause S6A.2.2A that the amount of capital expenditure as a result of which the previous value of the regulatory asset base would otherwise be increased in accordance with clause S6A.2.1(f) should be reduced.

- (a1) For the purposes of this clause S6A.2.2A, "**review period**" means:
- (1) the previous control period (excluding the last two *regulatory years* of that previous control period); and
  - (2) the last two *regulatory years* of the *regulatory control period* preceding the previous control period.
- (b) The *AER* may only make a determination under paragraph (a) if any of the following requirements is satisfied:
- (1) the requirement set out in paragraph (c) (the *overspending requirement*);
  - (2) the requirement set out in paragraph (d) (the *margin requirement*); or
  - (3) the requirement set out in paragraph (e) (the *capitalisation requirement*).
- (c) The *overspending requirement* is satisfied where the sum of all capital expenditure incurred during the review period exceeds the sum of:
- (1) the forecast capital expenditure accepted or substituted by the *AER* for the review period as such forecast capital expenditure has been adjusted in accordance with clauses 6A.7.1(f) and 6A.8.2(h); and
  - (2) any capital expenditure that is recovered by way of such part of an *approved pass through amount*, or of a *network support pass through amount*, as is permitted to be passed through to *Transmission Network Users* during the review period less any capital expenditure that is included in a *negative pass through amount*, or in a *network support pass through amount*, that is required to be passed through to *Transmission Network Users* during the review period.
- (d) The *margin requirement* is satisfied where the amount of the capital expenditure as a result of which the previous value of the regulatory asset base would otherwise be increased in accordance with clause S6A.2.1(f) includes capital expenditure that represents a margin paid by the *Transmission Network Service Provider* in circumstances where the margin is referable to arrangements that, in the opinion of the *AER*, do not reflect arm's length terms.
- (e) The *capitalisation requirement* is satisfied where the amount of the capital expenditure as a result of which the previous value of the regulatory asset base would otherwise be increased in accordance with clause S6A.2.1(f) includes expenditure that, under the *Transmission Network Service Provider's* applicable capitalisation policy submitted to the *AER* as part of its *Revenue Proposal*, should have been treated as operating expenditure.
- (f) Where the *overspending requirement* is satisfied, and subject to paragraphs (g) and (h), the *AER* may determine that the amount of the capital expenditure as a result of which the previous value of the regulatory asset

base would otherwise be increased in accordance with clause S6A.2.1(f) should be reduced by such amount as the *AER* is satisfied corresponds to capital expenditure incurred during the review period that does not reasonably reflect the *capital expenditure criteria*.

- (g) The amount determined by the *AER* under paragraph (f):
  - (1) must not be greater than the amount calculated in accordance with paragraph (c);
  - (2) must be determined in a manner that is consistent with the *capital expenditure incentive objective*, and
  - (3) must be determined taking into account the *Capital Expenditure Incentive Guidelines*.
- (h) In making a determination under paragraph (f), the *AER* must:
  - (1) have regard to the *capital expenditure factors*; and
  - (2) only take into account information and analysis that the *Transmission Network Service Provider* could reasonably be expected to have considered or undertaken at the time that it undertook the relevant capital expenditure.
- (i) Where the *margin requirement* is satisfied, and subject to paragraph (k), the *AER* may determine that the amount of the capital expenditure as a result of which the previous value of the regulatory asset base would otherwise be increased in accordance with clause S6A.2.1(f) should be reduced by such of the margin referred to in paragraph (d) as the *AER* is reasonably satisfied would not have been paid if the arrangements to which the margin is referable had been on arm's length terms.
- (j) Where the *capitalisation requirement* is satisfied, and subject to paragraph (k), the *AER* may determine that the amount of the capital expenditure as a result of which the previous value of the regulatory asset base would otherwise be increased in accordance with clause S6A.2.1(f) should be reduced by any or all of the amount of expenditure referred to in paragraph (e) which should have been treated as operating expenditure.
- (k) A determination made under paragraph (i) or (j) must be consistent with the *capital expenditure incentive objective* and, in making such a determination, the *AER* must take into account the *Capital Expenditure Incentive Guidelines*.
- (l) Nothing in this clause S6A.2.2A is to be taken to preclude the *AER* from:
  - (1) requiring a *Transmission Network Service Provider* to provide such information; or
  - (2) from undertaking such analysis,

as the *AER* considers appropriate to enable it to make a statement, with supporting reasons, as referred to in clause 6A.14.2(1).

### **S6A.2.2B Depreciation**

- (a) Pursuant to clause 6A.14.1(5D), the *AER* must decide, for a draft decision under rule 6A.12 or a final decision under rule 6A.13, whether depreciation for establishing the regulatory asset base for a *transmission system* as at the commencement of the following *regulatory control period* is to be based on actual or forecast capital expenditure.
- (b) The decision referred to in paragraph (a) must be consistent with the *capital expenditure incentive objective*.
- (c) In making the decision referred to in paragraph (a), the *AER* must have regard to:
  - (1) the incentives that the *Transmission Network Service Provider* has in relation to undertaking efficient capital expenditure, including as a result of the application of any incentive scheme or any other incentives under the *Rules*;
  - (2) the substitution possibilities between assets with relatively short economic lives and assets with relatively long economic lives and the relative benefits of such asset types;
  - (3) the extent to which any capital expenditure incurred by the *Transmission Network Service Provider* has exceeded the corresponding amount of forecast capital expenditure accepted or substituted by the *AER* and the amount of that excess expenditure which is not efficient;
  - (4) the *Capital Expenditure Incentive Guidelines*; and
  - (5) the *capital expenditure factors*.

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

- (a) For the purposes of rolling forward the regulatory asset base for a *transmission system* as described in clause 6A.6.1 and this schedule and subject to paragraph (c), 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 that group of assets) no longer contributing to the provision of *prescribed transmission services*.

For the purposes of clause S6A.2.3(a)(3)(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 investment test for distribution* or *regulatory investment test for transmission* (as the case may be).

- (b) The *AER* may determine a separate amount which is to be included in the *annual building block revenue requirement* for a *Transmission Network Service Provider* for each *regulatory year* of a *regulatory control period* so as to compensate the *Transmission Network Service Provider* for the risk of the value of assets being removed from the regulatory asset base for the relevant *transmission system*, but only if it is satisfied that:
  - (1) the risk is not otherwise addressed through another provision of the *Rules*;
  - (2) the *Transmission Network Service Provider* has taken all the steps that a prudent *Transmission Network Service Provider* would take to manage the risk; and
  - (3) the *total revenue cap* for the *Transmission Network Service Provider* for that *regulatory control period* does not adequately reflect risks that cannot be reasonably managed.
- (c) Nothing in paragraph (a) is to be taken to limit the application of clause S6A.2.2A.

#### **S6A.2.4 Roll forward of regulatory asset base within the same regulatory control period**

(a) **Application of this clause**

This clause S6A.2.4 applies to the establishment of the value of the regulatory asset base for a *transmission 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 6A.6.1 must provide for that value to be established in accordance with the requirements of this clause S6A.2.4.

(c) **Method of adjustment of value of regulatory asset base**

The value of the regulatory asset base for a *transmission 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 *transmission 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 6A.6.7(c) or clauses 6A.13.2(b)(4) and (5) (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 *annual building block 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 *transmission system* which is rolled forward in accordance with this clause S6A.2.4.

## Schedule 6A.3 CRNP methodology and modified CRNP methodology

### S6A.3.1 Meaning of optimised replacement cost

For the purposes of this schedule 6A.3, references to “optimised replacement cost” include an accepted equivalent to optimised replacement cost that is referable to values contained in the accounts of the *Transmission Network Service Provider*.

### S6A.3.2 CRNP methodology

*CRNP Methodology* (or *cost reflective network pricing*) is an allocation process that involves the following steps:

- (1) Attributing network ‘costs’ to *transmission system* assets: the locational component of the *ASRR* allocated to *prescribed TUOS services* is allocated to each asset used to provide *prescribed TUOS services* based on the ratio of the optimised replacement cost of that asset, to the optimised replacement cost of all *transmission system* assets used to provide *prescribed use of system services*. The allocation to each *transmission system* asset is the **‘locational network asset cost’**.
- (2) Determining the baseline allocation of *generation* to *loads* using a ‘fault contribution matrix’.
- (3) Determining the allocation of dispatched *generation* to *loads* over a range of actual operating conditions from the previous *financial year*. The range of operating scenarios is chosen so as to include the conditions that result in most stress on the *transmission network* and for which *network* investment may be contemplated. For each operating scenario selected:
  - (i) a constrained allocation of *generation* to *loads* matrix must be developed, in which *generation* is allocated to serving *loads* on the basis of the fault contribution matrix;
  - (ii) load flow analysis techniques are used to solve for *network* flows and to calculate the sensitivity of flows on each *network element* resulting from incremental changes in each *load*;
  - (iii) the sensitivities are weighted by *load* to derive a ‘flow component’ magnitude in each *network element* due to each *load* for that hour;
  - (iv) the relative utilisation of each *network element* by each *load* is calculated from the ‘flow component’ magnitudes, using only the flow components in the direction of the prevailing line flow.
- (4) When all the selected operating scenarios have been assessed, allocating the individual locational *network* asset costs to *loads* on a pro rata basis using the maximum ‘flow component’ that each *load* has imposed on each *network* asset across the range of operating conditions considered.

- (5) Summing the individual locational *network* asset costs allocated to each *load* to give the total amounts allocated to that *load*.

### **S6A.3.3 Modified CRNP methodology**

*Modified CRNP methodology* is an allocation process that involves replacing step 1 of the CRNP methodology referred to in clause S6A.3.2(1) with the following 3 steps:

- (1) Allocating the *ASRR* allocated to *prescribed use of system services* to each *transmission system* asset used to provide *prescribed TUOS services* based on the ratio of the optimised replacement cost of the that asset to the optimised replacement cost of all *transmission system* assets used to provide *prescribed TUOS services*. The amount so allocated to each asset is the asset's gross network asset cost.
- (2) Adjusting individual gross *network* asset costs: the individual gross *network* asset costs determined in subparagraph (1) must each be multiplied by a factor (between 0 and 1) that depends on the utilisation of each asset. The resulting amount for each asset is the locational network asset cost while the remainder is the non-locational network asset cost.
- (3) Determining the non-locational component: the sum of the non-locational *network* asset cost represents the non-locational component of the *ASRR* for *prescribed TUOS services*.

## **Schedule 6A.4 Application of this Chapter to AEMO and declared transmission system operators**

### **S6A.4.1 Application of this Chapter to AEMO etc**

- (a) For the purpose of applying this Chapter, *AEMO* will be regarded as a *Transmission Network Service Provider* providing *shared transmission services*.
- (b) However, in the application of this Chapter to *transmission services* provided by means of, or in connection with, the *declared transmission system* of an *adoptive jurisdiction*, a reference to a *Transmission Network Service Provider* is, in relation to the provision of *entry services*, *exit services* or *shared network capability services* to be read as a reference to a *declared transmission system operator*.

### **S6A.4.2 Exclusions, qualifications and modifications**

- (a) This Chapter will be read subject to the following exclusions, qualifications and modifications.
- (b) **Part A (Introduction)**

Clause 6A.1.4(b) is excluded.



(c) **Part B (Transmission Determinations Generally)**

This Part applies subject to the following exclusions, qualifications and modifications:

Clause 6A.2.2 (Components of transmission determinations):

- (1) *A transmission determination for AEMO will not include a revenue determination.*
- (2) *However, AEMO must have a revenue methodology (which will not be subject to the AER's approval) setting out the method for calculating AEMO's maximum allowed revenue for the provision of prescribed transmission services for each regulatory year.*
- (3) *In formulating its revenue methodology, or an amendment to its revenue methodology, AEMO must consult with the public.*
- (4) *AEMO's maximum allowed revenue consists of:*
  - (i) *so much of the aggregate annual revenue requirement of each declared transmission system operator for AEMO's regulatory year as relates to the provision to AEMO of shared network capability services; and*
  - (ii) *the other costs forecast to be incurred by AEMO in the same regulatory year for the provision of prescribed shared transmission services.*

**Note:**

*The costs under subparagraph (ii) might include the cost of electricity network services provided by a declared transmission system operator where those services are, from the standpoint of the operator, not prescribed transmission services.*

- (5) *The revenue methodology must include a description of:*
  - (i) *the categories of costs to be recovered; and*
  - (ii) *the method (which must be consistent with the Cost Allocation Principles) for allocating costs to prescribed transmission services and negotiated transmission services; and*
  - (iii) *how under and over recovery of revenue in a particular regulatory year is to be treated.*
- (6) *The revenue methodology must be consistent with section 52 of the National Electricity Law and the provisions of Chapter 2 of these Rules applicable to AEMO.*
- (7) *AEMO must comply with its revenue methodology.*

- (8) Before the commencement of the *regulatory year* to which *AEMO*'s revenue methodology applies, *AEMO* must *publish*:
  - (i) the revenue methodology; and
  - (ii) a report on how it has applied its revenue methodology for the purpose of determining prices for the ensuing *regulatory year*.
- (9) However, for the *regulatory year* commencing on 1 July 2009, *AEMO* may, instead of formulating and publishing its own revenue methodology, adopt as its revenue methodology relevant provisions of the *transmission determination* that would have applied to VENCorp for that *regulatory year* if the legislative and regulatory changes that took effect at the commencement of that *regulatory year* had not been made.

(d) **Part C (Regulation of Revenue – Prescribed Transmission Services)**

This Part is not applicable to *AEMO*.

This Part applies to a *declared transmission system operator* with the following modification of clause 6A.7.1:

If a *declared transmission system operator* is directed by *AEMO*, or is required by or agrees with a *Connection Applicant*, to construct an *augmentation*, clause 6A.7.1 applies as if:

- (1) the direction, requirement or agreement were an event in respect of which the *declared transmission system operator* were unconditionally authorised under clause 6A.7.1(a) to apply to the *AER* for revocation and substitution of a *revenue determination*; and
- (2) clause 6A.7.1(a)(1) to (7) were inapplicable to an application founded on such an event; and
- (3) the following were added after clause 6A.7.1(d):
  - (da) If a *declared transmission system operator* is directed by *AEMO*, or is required by or agrees with a *Connection Applicant*, to construct an *augmentation*, and the operator applies to the *AER* for revocation of a *revenue determination* on that ground, the *AER* must revoke the *revenue determination*.

(e) **Part D (Negotiated Transmission Services)**

Part D applies subject to the following qualification:

Clause 6A.9.1 applies to *AEMO* as if the reference in paragraph (1) to “principles and policies set out in the *Cost Allocation Methodology* for the relevant *Transmission Network Service Provider*” were a reference to principles and policies set out in *AEMO*'s revenue methodology.

(f) **Part E (Revenue determinations, negotiating frameworks and pricing methodologies)**

Part E applies subject to the following exclusions, qualifications and modifications:

1. Clause 6A.10.1 (Submission of proposal, framework, pricing methodology and information)

Clause 6A.10.1 applies to *AEMO* as if for paragraphs (a), (b) and (c) the following were substituted:

(a) *AEMO* must, as and when required by the *AER*, submit to the *AER*:

- (1) a proposed *pricing methodology* relating to *shared transmission services* that are *prescribed TUOS services* or *prescribed common transmission services* (***prescribed shared transmission services***); and
- (2) a proposed *negotiating framework* relating to *shared transmission services* that are *negotiated transmission services*.

(b) *AEMO's pricing methodology*:

- (1) must be designed to recover no more than *AEMO's maximum allowed revenue* for the provision of *prescribed shared transmission services*; and
- (2) must set out the principles on which prices for *prescribed shared transmission services* are to be determined.

(c) Exact equivalence is not required between the costs of providing a service and the revenue derived from providing the service in a particular *regulatory year* if there are reasonable grounds to believe that costs will over time approximate revenue.

(ca) The proposed *negotiating framework* must comply with the requirements of, and must contain or be accompanied by the information required by, any relevant *regulatory information instrument*.

1A. Clause 6A.10.1A (*AER's framework and approach paper*)

Clause 6A.10.1A is not applicable to *AEMO*.

2. **[Deleted]**

3. Clause 6A.11.1 (Preliminary examination and determination of non-compliance with relevant requirements)

Clause 6A.11.1 applies to *AEMO* only insofar as relevant to a *negotiating framework* or *pricing methodology*.

4. Clause 6A.11.2 (Resubmission of proposal, framework, pricing methodology or information)

Clause 6A.11.2 applies to *AEMO* only insofar as relevant to a *negotiating framework* or *pricing methodology*.

5. Clause 6A.11.3 (Resubmission of proposal, framework, pricing methodology or information)

Clause 6A.11.3 applies to *AEMO* only insofar as relevant to a *negotiating framework* or *pricing methodology*.

6. Rule 6A.12 (Draft decision and further consultation)

This *Rule* applies to *AEMO* only insofar as relevant to a decision on a *negotiating framework* or a *pricing methodology*.

7. Rule 6A.13 (Final decision)

This *Rule* applies to *AEMO* only insofar as relevant to a decision on a *negotiating framework* or a *pricing methodology*.

8. Rule 6A.14 (Requirements relating to draft and final decisions)

(a) This *Rule* applies to *AEMO* only insofar as relevant to a decision on a *negotiating framework* or a *pricing methodology*.

(b) Clause 6A.14.3(e) (which requires the *AER* to approve a *regulatory control period* of 5 *regulatory years*) is inapplicable to *AEMO*.

**Note:**

The *Rule* is thus largely inapplicable. Of clause 6A.14.1 only paragraphs (6), (7) and (8) are applicable. Clause 6A.14.2 requires the *AER* to give reasons setting out the basis and rationale of its decision. This requirement is relevant to a decision on a pricing methodology or negotiating framework but the matters of detail mentioned in paragraphs (1) to (4) would, as a general rule, be irrelevant to such a decision. Of clause 6A.14.3 only paragraphs (f) to (i) would be relevant.

9. Rule 6A.15 (Revocation of revenue determination or amendment of pricing methodology for wrong information or error)

This *Rule* applies to *AEMO* only insofar as relevant to the amendment of a *pricing methodology*.

10. Rule 6A.16 (Miscellaneous)

This *Rule* applies as if it included the following additional paragraphs:

- (g) *AEMO* must, on or before 15 May in each year, *publish* its prices for *prescribed shared transmission services* for its next *regulatory year*.
- (h) A *declared transmission system operator* must notify *AEMO* of its revenue requirement for the provision of *shared network capability services* for *AEMO's* next *regulatory year* in sufficient time to enable *AEMO* to calculate prices in accordance with the approved *pricing methodology* and meet its obligations under paragraph (g).

(g) **Part F (Information Disclosure)**

This Part is not applicable to *AEMO*.

(h) **Part G (Cost Allocation)**

*AEMO's* revenue methodology must be consistent with the *Cost Allocation Principles* set out in this Part: see clause S6A.4.2(c)(5). This Part applies to *AEMO* only insofar as it is relevant to that requirement.

(i) **Part H (Transmission Consultation Procedures)**

No exclusions, qualifications or modifications are prescribed.

(j) **Part I (Ring-Fencing Arrangements for Transmission Network Service Providers)**

This Part is not applicable to *AEMO*.

(k) **Part J (Prescribed Transmission Services – Regulation of Pricing)**

Part J applies subject to the following exclusions, qualifications and modifications:

1. Rule 6A.23 (Pricing Principles for Prescribed Transmission Services)

Clause 6A.23.3 applies as if it included the following additional paragraphs:

- (g) In relation to the *declared transmission system* of an *adoptive jurisdiction*:
  - (1) *AEMO* is responsible for allocating the *ASRR* for *prescribed TUOS services* and *prescribed common transmission services*; and
  - (2) the relevant *declared transmission system operator* is responsible for allocating the *ASRR* for *prescribed entry services* and *prescribed exit services*.

- (h) *A declared transmission system operator must:*
- (1) *allocate costs between shared network capability services and prescribed connection services; and*
  - (2) *notify AEMO of its allocation (and the basis on which it was made) in sufficient time to calculate prices for AEMO's next regulatory year in accordance with its pricing methodology; and*
  - (3) *provide AEMO (as and when requested by AEMO) with the information AEMO reasonably requires to allocate ASRR for prescribed TUOS services and prescribed common transmission services.*

Clause 6A.23.4 applies as if it included the following additional paragraph:

- (k) *A declared transmission system operator is not required to develop separate prices for recovery of the ASRR referable to shared network capability services.*

2. Rule 6A.24 (Pricing Methodology)

Clause 6A.24.1 applies as if the following paragraphs were substituted for paragraphs (e) and (f):

- (e) *Subject to express provisions of these Rules to the contrary, a pricing methodology:*
- (1) *applies for the duration of the relevant regulatory control period; and*
  - (2) *may not be amended during the regulatory control period.*
- (f) *However, the AER may, on an application made by AEMO during the regulatory year commencing on 1 July 2009, amend AEMO's pricing methodology as it applies to the setting of prices for the regulatory year commencing on 1 July 2010 and later regulatory years.*

Clause 6A.24.2 applies as if the following sub-paragraphs were substituted for sub-paragraphs (c)(1) and (c)(2):

- (1) **[deleted]**; or
- (2) 15 May each year.

3. Clause 6A.26.1 (Agreements for prudent discounts for prescribed transmission services)

Clause 6A.26.1 applies as if:

- (1) the power under paragraph (b) to agree to charge lower prices for *prescribed TUOS services* and *prescribed common transmission services* were vested in *AEMO* to the exclusion of the relevant *declared transmission system operator*; and
  - (2) additional provisions to the following effect were included:
    - (i) *AEMO* must obtain the written consent of the relevant *declared transmission system operator* before exercising that power;
    - (ii) the relevant *declared transmission system operator* and *AEMO* must negotiate in good faith whenever either of them asks the other to consider a proposal for the exercise of that power in a particular manner.
- 4. Clause 6A.26.2 (Application to *AER* for approval of proposed prudent discount amounts)

Clause 6A.26.2 (k) is not applicable to *AEMO*.
- 5. Clause 6A.29.1 (Multiple Transmission Network Service Providers within a region)

Clause 6A.29.1 applies as if it included the following additional paragraph:

  - (g) *AEMO* is (without appointment under clause 6A.29.1(a)) the *Co-ordinating Network Service Provider* for a *region* that includes the whole or the major part of the *declared shared network*.
- (l) **Part K (Commercial arbitration for disputes about terms and conditions of access for prescribed and negotiated transmission services)**

This Part does not apply to a dispute that can be resolved by the *AER* under section 50H of the *National Electricity Law*.
- (m) **Schedule S6A.1 (Contents of Revenue Proposals)**

This Schedule is not applicable to *AEMO*.
- (n) **Schedule S6A.2 (Regulatory Asset Base)**

This Schedule is not applicable to *AEMO*.

Clause S6A.2.3(a)(3)(i) is not applicable to a *declared transmission system operator*.
- (o) **Schedule S6A.3 (CRNP methodology and modified CRNP methodology)**

This Schedule applies without exclusion, qualification or modification.