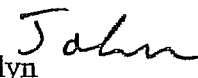


Dr J Tamblyn
Chair
Australian Energy Market Commission
PO Box H166
AUSTRALIA SQUARE NSW 1215

Dear Dr Tamblyn 

National Electricity Rules – Rule Change Application
Reform of the Dispute Resolution Process for the *Regulatory test*

In accordance with s.91 of the *National Electricity Law* (NEL), the Ministerial Council on Energy (MCE) requests the Australian Energy Market Commission (AEMC) to make a Rule to implement a streamlined dispute resolution process for the *regulatory test*.

In the December 2003 MCE report to the Council of Australian Governments (COAG), the MCE adopted four key principles to underpin transmission policy in the National Electricity Market (NEM). Within these principles the MCE agreed to a package of transmission reforms, including the development of a new streamlined dispute resolution process for the *regulatory test*. The May 2005 MCE Statement on NEM Electricity Transmission draws together the various elements of the MCE Transmission Reform program including the streamlined dispute resolution process for the *regulatory test*.

Further to the guidance provided in the above documents, a description of the proposed rule, statement of the issues concerning the existing rules, and how the proposed rule addresses those issues consistent with the NEM objective is at **Attachment A**. A draft of the proposed rule is at **Attachment B**.

The MCE would be pleased if you could have these matters considered by the AEMC. For further details, please do not hesitate to contact Loretta Boman on (07) 3225 8207.

Yours sincerely



Ian Macfarlane

Rule change request on Streamlined Dispute Resolution Process for the Regulatory test

Role of the Dispute Resolution Process for the Regulatory Test in the Rules

This Rule change proposal is focused specifically on the dispute resolution process arising from the application of the *regulatory test*. It does not address dispute resolution under the Rules more broadly.

The general dispute resolution provisions are contained in section 8.2 of the Rules. The specific application of the dispute resolution process in respect to the *regulatory test* is contained within clause 5.6.6 of the Rules.

Currently, *Registered Participants*, NEMMCO and *interested parties* may dispute the contents, assumptions, findings or recommendations of the report prepared by the project proponent for the *new large transmission network asset* prepared under clause 5.6.6(f) with respect to:

1. alternatives considered and their ranking;
2. whether the project will have a material inter-network impact;
3. the basis on which the applicant has assessed that the *new large transmission network asset* satisfies the *regulatory test*; and
4. whether the project is a reliability augmentation.

Disputes are settled by the Dispute Resolution Panel (DRP). The DRP cannot determine whether the *new large transmission network asset* satisfies the *regulatory test*. The Rules allow the DRP to settle the assumptions upon which the *regulatory test* is applied. Following the resolution of a dispute by the DRP, the proponent must re-publish the final report, incorporating any agreed or amended matters and any determination by the DRP.

Irrespective of the outcomes of the DRP process and the preparation of the final report by the project proponent, the same matters considered and resolved by the DRP can be disputed through clause 5.6.6(l) and are referred to the Australian Energy Regulator (AER) for determination. If the network asset is not a reliability augmentation, *Registered Participants*, NEMMCO and *interested parties* may dispute the conclusion in the project proponent's report that the *new large transmission network asset* satisfies the *regulatory test*. If a dispute is raised, the proponent must apply to the AER for a determination that the proposal satisfies the *regulatory test*.

Background to policy position

The MCE confirmed the following policy position for streamlining the dispute resolution process for the *regulatory test* in its May 2005 Statement on NEM Electricity Transmission:

A streamlined dispute resolution process will be proposed for the regulatory test with clearly defined timeframes. Under the revised process, all matters relevant to the NEM that are currently heard by a multi-staged dispute resolution process will be heard directly by the AER.

The streamlined dispute resolution process will restrict those that can raise a dispute to:

1. *Rule Participants – National Electricity Market Management Company (NEMMCO), any person registered with NEMMCO as a Market Participant, and for the purposes of the Dispute Resolution Process, this includes AEMC, Connection Applicants, and Intending Participants.*
2. *Interested Parties - a person including an end user or its representative who, in the AER's opinion, has or identifies itself to the AER as having the potential to suffer a material and adverse market impact from the recommended network development.*

Disputes based on personal detriment or personal property rights, rather than on network issues and the operation of the NEM, will be heard through existing environmental and land planning appeal processes.

Statement of issues concerning the existing Rules & how the proposed Rule addresses the issue.

Streamlining the dispute resolution process

The current dispute resolution process has led to a situation where a dispute before the DRP is likely to be followed by a subsequent appeal to the AER on the same or similar grounds. These arrangements have been time consuming and costly, and have led to substantial delays in progressing important interconnection and augmentation projects.

Given the level of potential duplication in the process that exists, the most efficient way of handling disputes arising from the application of the *regulatory test* is to remove the DRP from the process and have all disputes determined by the AER.

Under this proposal, matters that are currently heard by the DRP under clause 5.6.6(h) would be heard directly by the AER. As currently occurs, the AER would also have the power to hear and determine whether a *new large transmission network asset* satisfies the *regulatory test* (a matter not within the authority of the DRP).

As a result of this change, disputes would be heard through a single stage process only, thus reducing the time taken to resolve disputes compared to the current dual-stage process. This would allow efficient investment to take place in a more timely fashion.

Delay in dispute resolution is also caused by lengthy dispute resolution periods. To avoid lengthy delays, strict timeframes are proposed to apply to the dispute resolution process. Any dispute must be lodged with the AER and the applicant within 30 business days of the publication, on the NEMMCO website, of the final report made under an application to establish a *new large transmission network asset*.

The AER must resolve all disputes concerning reliability augmentations within 30 business days of receiving notice of the dispute, and 120 business days for non-reliability disputes. Resolving disputes concerning non-reliability augmentations can be potentially complex, especially when determining if a project satisfies the *regulatory test*. Hence a generous period of 120 business days is proposed for resolving disputes concerning non-reliability augmentations. Disputes concerning reliability augmentations are generally less complex, however far more important to resolve quickly. Delays in resolving disputes concerning reliability augmentations have the potential to impact system security if augmentations are not allowed to proceed when a need is identified. For these reasons it is proposed that these disputes should be resolved in 30 business days.

This proposal further streamlines the dispute resolution process by requiring dispute notices to be lodged directly with the AER (with a copy to the applicant). Under this proposal the AER must consider the dispute from the day it receives the dispute notice.

What can be disputed?

Currently, a dispute can be raised regarding whether a *new large transmission network asset* is a *reliability augmentation*. A dispute can also be raised regarding whether a *new large transmission network asset* has a *material inter-network impact*. Parties cannot currently dispute whether a *reliability augmentation* satisfies the *regulatory test*.

Under the streamlined dispute resolution process, the AER will determine disputes as to whether a *new large transmission network asset* is a *reliability augmentation*.

Whether an augmentation has a *material inter-network impact* is a technical question relevant to the report prepared by the applicant under clause 5.6.6(f). Disputes can be raised on this matter and will be determined by the AER. Clause 5.6.6(h) should be expanded to allow a dispute regarding whether the *new large transmission network asset* satisfies the criteria for a material inter-network impact published by the Inter-regional Planning Committee. This will clarify the basis for a dispute under 5.6.6(h)(2).

A disputing party can dispute any project, including reliability augmentation projects, as to the possible alternative projects that have been considered and their ranking. Where this concerns *reliability augmentations*, parties may dispute whether the proposed investment is the least cost option. An alternative project may not necessarily be new infrastructure. Reliability could be maintained by a party offering a service contract, such as a generator offering a network support agreement, and this could be considered an alternative project.

Under the streamlined dispute resolution process, disputes on whether a *new network investment* satisfies the *regulatory test* will continue to be limited to non-reliability *new large transmission network assets*. This will ensure that disputes brought to the AER are significant in terms of the operation of the NEM as a whole. There are checks and balances through the transparency of the application of the *regulatory test* (including consultation) and the last resort planning power of the Australian Energy Market Commission (to direct that a project be subject to the *regulatory test*) to discourage imprudent investment in reliability augmentation. No additional protection is proposed.

Under the proposed Rule, the AER may refuse to determine a dispute on the basis that the dispute is not of the kind intended to be dealt with – that is based on personal detriment or personal property rights rather than network issues and the operation of the NEM.

Affected parties who dispute a project on grounds of personal detriment or effect on personal property rights, rather than on network issues and the operation of the NEM, can pursue their personal interests through other existing channels such as the State environmental and land planning processes. The AER, as a regulatory body, is not an appropriate body to resolve these issues and should have the discretion to dismiss disputes that are not relevant to, or are peripheral to, or do not legitimately address the criteria for dispute prescribed in the Rules.

The streamlined dispute resolution process proposed in this paper gives discretion to the AER to dismiss frivolous or vexatious disputes brought by third parties before significant costs are incurred.

Who can raise a dispute?

The current dispute resolution process for the *regulatory test* is open to *Registered Participants*, *NEMMCO* and *interested parties*. *Interested parties* in respect to Chapter 5 is defined in the Rules as ‘a person including an end user or its representative who, in NEMMCO’s opinion, has identified itself to NEMMCO as having an interest in relation to the network planning and development activities covered under clause 5.6...’. This wide definition has resulted in the dispute resolution process for the *regulatory test* being delayed by disputes of personal detriment or effect on personal property rights.

For the purpose of the streamlined dispute resolution process, it is proposed that *Registered Participants*, *the AEMC*, *Connection Applicants*, *Intending Participants*, *NEMMCO* and *interested parties* (as defined below) can bring a dispute to the AER. *Connection Applicants* and *Intending Participants* are included because they have the potential to be effected to the same degree as *Registered Participants* if and when their registration status shifts to *Registered Participant*.

To make the definition of *interested parties* relevant to the dispute resolution process, the definition in Chapter 10 is to be amended to include a person who in the AER’s opinion, has or identifies itself to the AER as having the potential to suffer a material and adverse market impact from a *new large transmission network asset* identified in a report prepared under clause 5.6.6(f) or clause 5.6.5B(h). Clause 5.6.5B(h) refers to the *regulatory test* under the Last Resort Planning Powers provisions.

Cost Recovery

The AER currently has the power under Clause 5.6.6(q) of the Rules to charge the proponent for the costs incurred by the AER in engaging a consultant to assist the AER to resolve a dispute by making a determination as to whether a *new large transmission network asset* satisfies the *regulatory test*. Although this power is at the discretion of the AER, the risk for the proponent is that third parties may seek an appeal to the AER, which triggers additional costs to the proponent.

The allocation of costs in this way imposes very little discipline on the third parties not to lodge vexatious disputes. Third parties are not exposed to the costs arising from the dispute and can effectively raise the proponent's costs, providing a disincentive to seek regulatory approval in the first place.

On the other hand, removing the cost recovery mechanism may remove the discipline on the TNSP to apply the *regulatory test* in a rigorous and comprehensive manner, inviting a third party to dispute the result and forcing the AER to undertake the consultation and analysis necessary to conduct the *regulatory test*. The TNSP thereby shifts costs that it would otherwise have incurred, to the AER.

Therefore, on balance, under the proposed Rule, the AER would have discretion to allocate the AER's consultancy costs, to either or both the applicant (project proponent) and/or disputing party. In the case where no dispute is lodged and an applicant requests the AER to make a determination as to whether a project satisfies the *regulatory test*, the AER may only allocate the costs described above to the applicant.

Determination as to whether a project passes the *regulatory test*

The current Rules provide no provision for a project proponent to apply to the AER to determine whether a project satisfies the *regulatory test*. This leaves the project proponent uncertain as to whether the AER will include the completed project into their regulated asset base.

Under the proposed Rule, where the project is not a reliability augmentation, and the report provided by the project proponent is not in dispute, the project proponent may apply to the AER to determine whether the project satisfies the *regulatory test*.

Description of proposed Rule

Streamlined dispute resolution process for the *regulatory test*

All disputes arising from the application of the *regulatory test* under clause 5.6.6 are proposed to be heard by the AER only. Removing the DRP from the dispute resolution process can be achieved by deleting existing clauses 5.6.6 (i), (j), and (k), and related references. The reference to augmentations in clause 8.2.1(3) should be deleted.

The matters that can be disputed under clause 5.6.6(h) should be retained and heard by the AER. Clause 5.6.6(h) should be expanded to allow a dispute regarding whether the *new large transmission network asset* satisfies the criteria for a material inter-network impact published by the *Inter-regional Planning Committee*. This will clarify the basis for a dispute under 5.6.6(2).

Existing clause 5.6.6(l) is retained to allow the AER to determine whether a proposed project satisfies the *regulatory test* for non-reliability augmentations.

To achieve strict timeframes for resolving disputes, provision is required to impose the following timeframes:

1. 30 *business days* to lodge a dispute with the AER and applicant from when the final report is published on the NEMMCO website;
2. 30 business days for the AER to resolve disputes regarding reliability augmentations
3. 120 *business days* for the AER to resolve disputes regarding non-reliability augmentations

Dispute notices for all disputes should be provided directly to the AER (with a copy to the applicant). This avoids the unnecessary step of initially providing the notice to the applicant, and then allowing the applicant 10 days to apply to the AER for a determination.

To ensure the process is transparent, under this proposed Rule the AER should be required to publish reasons for a determination.

Consistent with the current Rules, the AER may request additional information from the applicant or disputing party, and may extend the timeframes for making a determination by the time taken to receive the additional information.

What can be disputed

Provision is required to allow the AER to refuse to determine disputes that are frivolous or vexatious, or based on personal detriment or property rights. This achieves the objective of restricting the dispute resolution process to only disputes that have a significant impact to the NEM.

Who can raise a dispute in respect to the *regulatory test*

Under the proposed Rules, the restriction on who can raise a dispute, which currently includes *Registered Participants*, *NEMMCO* and *interested parties* is re-drafted to also include the *AEMC*, *Connection Applicants*, and *Intending Participants*.

The definition of *interested party* relevant to the dispute resolution process in Chapter 10 is re-drafted to include a person (including an end user or its representative) who, in the AER's opinion, has or identifies itself to the AER as having the potential to suffer a material and adverse market impact from the *new large transmission network asset* identified in a report under clause 5.6.6(f) and clause 5.6.5B(h). Clause 5.6.5B(h) refers to the *regulatory test* under the Last Resort Planning Powers provisions.

Cost Recovery

Provision is required to give the AER discretion in allocating the costs of engaging a consultant to assist the AER in its determination, to either or both the applicant (project proponent) or disputing party.

Determination as to whether a project passes the *regulatory test*

Provision is required to allow the project proponent to apply to the AER to determine whether the project satisfies the *regulatory test*, when the project is not a reliability augmentation and the report provided by the project proponent is not in dispute. Following such a request, the AER should make a determination within 120 business days. This timeframe is consistent with the timeframe for resolving a dispute regarding non-reliability augmentations.

The proposed Rule should contain such other necessary consequential changes that the AEMC deems necessary in order to achieve the proposed reforms. This includes Rules for dispute resolution that complement disputes in relation to AEMC directions under the Last Resort Planning Power.

A draft of the proposed Rules to be made is contained in **Attachment B**. This draft includes administrative amendments of the existing Rules to improve the application of clause 5.6.6. The administrative and operational changes have not been discussed in this document. The parts of the rule that differ from the current rule are marked in yellow.

How the proposed Rule is likely to contribute to the achievement of the national electricity market objective

Promoting Efficient Investment

The streamlined dispute resolution process will reduce the time and therefore cost of disputes regarding the *regulatory test*. This will promote efficient investment by reducing delays to the timely investment in network or non-network alternatives, and will incentivise project proponents to proceed with applications for *new large transmission network assets* where they may not under the existing dispute processes for fear of costly and lengthy disputes.

The proposed Rule change will also increase certainty for investors because the AER may be requested to make a determination on the application of the *regulatory test* giving the project proponent certainty that the investment will be included in its regulated asset base.

Long term benefit to customers with regard to price

Efficient investment in transmission will reduce impediments to efficient dispatch of generation. This is achieved by reducing network congestion that may have resulted in the requirement to run higher cost, less efficient generators in place of lower cost and more efficient generators. Increased utilisation of low cost plant would likely flow on to lower wholesale prices for electricity, and lower retail electricity prices for customers.

Long term benefit to customers with regard to quality, reliability and security

Most network investment is undertaken to maintain network performance requirements, including reliability standards. The streamlined dispute resolution process reduces delays in resolving disputes regarding *new large transmission network assets*. Reducing delays allows projects to proceed more efficiently and quickly, and encourages project proponents to proceed with applications for *new large transmission network assets* where they may not under the existing dispute processes for fear of costly and lengthy disputes. This will result in reliability augmentations being able to proceed closer to when the need is first identified, and reduce the likelihood of reliability and security issues due to delayed investment.

Power to make Rules

The AEMC has the power to make the requested rule under s 34(1)(c) of the NEL. It also falls clearly within the head of power in clause 30 of Schedule 1 of the NEL relating to disputes which is given effect by s. 34(2) of the NEL.

MCE-initiated Rule change proposals

Dispute Resolution

5.6.6 Applications to establish new large transmission network assets

- (a) In addition to the process and procedures to establish a connection to a network in clause 5.3, all applications to establish a *new large transmission network asset* must conform to the access arrangements in this clause 5.6.6 and follow the process set out in this clause 5.6.6.
- (b) An applicant who proposes to establish a *new large transmission network asset* must consult all *Registered Participants*, *NEMMCO* and *interested parties* about the proposed *new large transmission network asset* in accordance with this clause 5.6.6. The applicant must make available to all *Registered Participants* and *NEMMCO* a notice (an '*application notice*') which must set out:
 - (1) a detailed description of:
 - (i) the proposed *new large transmission network asset*;
 - (ii) the reasons for proposing to establish the *new large transmission network asset* (including, where applicable, the actual or potential *constraint* or inability to meet the *network* performance requirements set out in schedule 5.1 or relevant legislation or regulations of a *participating jurisdiction*, including *load* forecasts and all assumptions used); and
 - (iii) all other reasonable *network* and non-*network* alternatives to address the identified *constraint* or inability to meet the *network* performance requirements identified in clause 5.6.6(b)(1)(ii). These alternatives include, but are not limited to, *interconnectors*, *generation* options, *demand side* options, *market network service* options and options involving other *transmission* and *distribution networks*;
 - (2) all relevant technical details concerning the proposed *new large transmission network asset* and the construction timetable and commissioning date for the *new large transmission network asset*;
 - (3) an analysis of the ranking of the proposed *new large transmission network asset* and all reasonable alternatives. This ranking must be undertaken by the *applicant* in accordance with the principles contained in the *regulatory test* under 5.6.5A;
 - (4) an *augmentation technical report* prepared by the *Inter-regional Planning Committee* in accordance with clause 5.6.3(j) if, and only if, the asset is reasonably likely to have a *material inter-network impact* and the applicant has not received the consent to proceed with such construction from all *Transmission Network Service Providers* whose

transmission networks are materially affected by the *new large transmission network asset*. In assessing whether a *new large transmission network asset* is reasonably likely to have a *material inter-network impact*, an applicant must have regard to the objective set of criteria *published* by the *Inter-regional Planning Committee* in accordance clause 5.6.3(i) (if any such criteria have been *published* by the *Inter-regional Planning Committee*); and

- (5) detailed analysis of why the applicant considers that the *new large transmission network asset* satisfies the *regulatory test* and, where the applicant considers that the *new large transmission network asset* satisfies the *regulatory test* as the *new large transmission network asset* is a *reliability augmentation*, analysis of why the applicant considers that the *new large transmission network asset* is a *reliability augmentation*. In assessing whether a *new large transmission network asset* is a *reliability augmentation*, the applicant must consider whether the *new large transmission network asset* satisfies the criteria for a *reliability augmentation* *published* by the *Inter-regional Planning Committee* in accordance with clause 5.6.3(1) (if any such criteria have been *published* by the *Inter-regional Planning Committee*).
- (c) The applicant must provide a summary of the *application notice* to NEMMCO. Within 3 *business days* of receipt of the summary, NEMMCO must *publish* the summary on its website. The applicant must, upon request by an *interested party*, provide a copy of the *application notice* to the *interested party* within 3 *business days* of the request.
- (d) Within 30 *business days* of *publication* of the summary of the *application notice* on NEMMCO's website *interested parties* may make written submissions to the applicant on any matter in the *application notice*. A written submission may state whether the *interested party* considers that a meeting is necessary.
- (e) The applicant must consider all submissions received in accordance with the requirements of clause 5.6.6(d) within a further 30 *business days*. The applicant must use its best endeavours to hold meetings with *interested parties* who have requested meetings within a further 21 *business days* if:
- (1) after having considered all submissions received in accordance with the requirements of clause 5.6.6(d), concludes that it is desirable or necessary to hold any such meetings; or
 - (2) a meeting is requested by 2 or more *interested parties*.
- (f) The applicant must prepare a final report that is to be made available to all *Registered Participants*, NEMMCO and *interested parties* who responded to the *application notice* which must set out the matters detailed in clause 5.6.6(b) and summarises the submissions received from *interested parties* and the applicant's response to each such submission.

- (g) The applicant must provide a summary of the final report to NEMMCO. Within 3 *business days* of receipt of the summary, NEMMCO must *publish* the summary on its website.
- (h) *Registered Participants, the AEMC, Connection Applicants, Intending Participants, NEMMCO and interested parties* may only dispute the contents, assumptions, findings or recommendations of the final report prepared under clause 5.6.6(f) or clause 5.6.5B(h) with respect to:
- (1) possible alternatives considered and their ranking under clause 5.6.6(b)(3);
 - (2) whether the *new large transmission network asset* will have a *material inter-network impact* and (if any such criteria had been *published* by the *Inter-regional Planning Committee* at the time of preparation of the final report under clause 5.6.6(f) or clause 5.6.5B(h)) whether the *new large network asset* satisfies the criteria for a *material inter-network impact published by the Inter-regional Planning Committee in accordance with clause 5.6.3(i)*;
 - (3) the basis on which the applicant has assessed that the *new large transmission network asset* satisfies the *regulatory test* provided the *new large transmission network asset is not a reliability augmentation*; and
 - (4) whether the *new large transmission network asset* is a *reliability augmentation* and (if any such criteria had been *published* by the *Inter-regional Planning Committee* at the time of preparation of the final report under clause 5.6.6(f) or clause 5.6.5B(h)) whether the *new large transmission network asset* satisfies the criteria for a *reliability augmentation published by the Inter-regional Planning Committee* in accordance with clause 5.6.3(l),
in accordance with the dispute resolution process in this clause 5.6.6. For the avoidance of doubt, *Registered Participants, the AEMC, Connection Applicants, Intending Participants, NEMMCO and interested parties* may not dispute any matters set out in the final report prepared in accordance with clause 5.6.6(f) or clause 5.6.5B(h) which are regarded as economic side-effects that are periphery to the *regulatory test* or based on personal detriment or property rights.
- (i) Deleted
- (j) Deleted
- (k) Deleted
- (l) *Registered Participants, the AEMC, Connection Applicants, Intending Participants, NEMMCO and interested parties* may dispute the finding in a final report, prepared in accordance with clause 5.6.6(f) or clause 5.6.5B(h), that the *new large transmission network asset* satisfies the *regulatory test*,

provided the *new large transmission network asset* is not a *reliability augmentation*.

- (la) Notice of a dispute under either clause 5.6.6(h) or 5.6.6(l) must be lodged with the AER and the applicant by the party bringing the dispute within 30 *business days* after publication of the final report on NEMMCO's website. The notice of dispute must specify the grounds under clause 5.6.6(h) or clause 5.6.6(l) for the dispute.
- (lb) Subject to clauses 5.6.6(o) and 5.6.6(qb), the AER must resolve a dispute raised under clause 5.6.6(h) within 30 *business days* of receiving notice of the dispute and must resolve a dispute raised under clause 5.6.6(l) within 120 *business days* of receiving notice of the dispute.
- (lc) The AER must resolve all disputes lodged with it under clause 5.6.6(la) and applications received by it under clause 5.6.6(ma) by way of a determination.
- (ld) The AER may, in making a determination under clause 5.6.6(lc), disregard any matter raised by a part in the dispute that resolution process that is misconceived or lacking in substance.
- (le) The AER may request further information from a party bringing a dispute, or from the applicant, if the AER is not able to make a determination based on the information provided to it under clause 5.6.6(la) or 5.6.6(mb).
- (lf) The AER must *publish* its reasons for making a determination under this clause 5.6.6.
- (m) Deleted.
- (ma) Where a *new large transmission network asset* is not a *reliability augmentation* and the finding in a final report prepared under clause 5.6.6(f) is not in dispute, the applicant may apply in writing to the AER for a determination whether the *new large transmission network asset* satisfies the *regulatory test*.
- (mb) Subject to clauses 5.6.6(o) and 5.6.6(qb), the AER must make a determination requested under clause 5.5.6(ma) within 120 *business days* of receipt of the request from the applicant.
- (n) The AER must use the findings and recommendations in the final report prepared in accordance with clause 5.6.6(f) or clause 5.6.5B(h), and may have regard to any other matter it considers relevant when determining whether or not the *new large transmission network asset* satisfies the *regulatory test*.
- (o) The relevant period in which the AER must make a determination under clause 5.6.6(lb) or 5.6.6(mb) will be automatically extended by the period of time taken by the applicant to provide any additional information requested, by the AER under 5.6.6(le).
- (p) Deleted

- (q) The *AER* may, prior to the expiry of the relevant time period referred to in clause 5.6.6(lb) or 5.6.6(mb), render the applicant an invoice in relation to the costs incurred by the *AER* in engaging a consultant to assist the *AER* in its determination under clause 5.6.6(lc).
- (qa) The *AER* may, in its absolute discretion, make a determination that the costs incurred by the *AER* in engaging a consultant to assist the *AER* in its determination of a dispute lodged with the *AER* under clause 5.6.6(la), should be shared by the parties to the dispute or borne by a party or parties to the dispute other than the applicant and may render invoices accordingly.
- (qb) If an invoice is rendered under clause 5.6.6(q) or 5.6.6(qa), the *AER* is not required to make its relevant determination until the expiry of a period of 7 *business days* from the payment to the *AER* of the full amount of the invoice.

8.2 Dispute Resolution

8.2.1 Application and guiding principles

- (a) This clause 8.2 applies to any dispute which may arise between two or more *Registered Participants* about:
- (1) the application or interpretation of the Rules;
 - (2) the failure of any *Registered Participants* to reach agreement on a matter where the *Rules* require agreement or require the *Registered Participants* to negotiate in good faith with a view to reaching agreement,
 - (3) Deleted
 - (4) the proposed *access arrangements* or *connection agreements* of an *Intending Participant* or a *Connection Applicant*; or
 - (5) the payment of moneys under or concerning any obligation under the *Rules*; or
 - (6) any other matter relating to or arising out of the *Rules* in respect of which a contract between two or more *Registered Participants* provides that the dispute resolution procedures under the *Rules* are to apply; or
 - (7) any other matter relating to or arising out of the *Rules* to which two or more *Registered Participants* have agreed in writing that this clause 8.2 should apply, or
 - (8) any other matter that the *Rules* provide may or must be dealt with under clause 8.2.

but does not apply to those disputes described in clause 8.2.1(h).

10 GLOSSARY

interested party

1. In Chapter 5, a person including an end user or its *representative* who, in *NEMMCO*'s opinion, has or identifies itself to *NEMMCO* as having an interest in relation to the *network* planning and development activities covered under clause 5.6.
- 1A. ~~Notwithstanding the definition in 1. above, in Clause 5.6.6(h) and Clause 5.6.6(i), a person including an end user or its *representative* who, in the AER's opinion, has or identifies itself to the AER as having, the potential to suffer a material and adverse market impact from the *new large transmission network asset* identified in report prepared under clause 5.6.6(f) and 5.6.5B(h).~~
2. ~~Deleted in the conversion of the Code into Rules.~~
3. In Chapter 6, a person not being a *Registered Participant* or *NEMMCO*, who:
 - (a) in relation to the *Transmission Ring-Fencing Guidelines*, in the *AER*'s opinion, has or who identifies itself to *AER* as having, an interest in those Guidelines; or
 - (b) in relation to the *Distribution Ring-Fencing Guidelines*, in the *Jurisdictional Regulator*'s opinion, has or who identifies itself to the *Jurisdictional Regulator* as having, an interest in those Guidelines.
4. In Chapter 7, a person that a Metrology Coordinator considers to be an interested party.
5. In Chapter 2, a person including an end user or its *representative* who, in *NEMMCO*'s opinion, has or identifies itself to *NEMMCO* as having an interest in relation to the structure and *Participant Fees*.