

CHAPTER 8A

8A. Participant Derogations

Note:

This Chapter contains the *participant derogations* for the purposes of the *National Electricity Law* and the *Rules*.

Part 1 Derogations Granted to TransGrid

8A.1 Derogation for the Treatment of Contingent Projects under Revenue Determination

8A.1.1 Expiry date

This derogation expires on 1 July 2009.

8A.1.2 Definitions

In this *participant derogation*:

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

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

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

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

TransGrid means the energy services corporation constituted under section 6A of the Energy Services Corporations Act 1995 (NSW).

trigger event means an event identified as a trigger in Attachment G of the Determination in respect of a contingent project.

8A.1.3 Treatment of contingent projects

(a) Where the trigger event identified in respect of a contingent project occurs prior to 1 July 2009, the *AER* must, in accordance with the Determination:

(1) determine:

(i) the total capital expenditure which the *AER* considers is reasonably required for the purpose of undertaking the contingent project;

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

Part 2 Derogations Granted to EnergyAustralia

8A.2 Derogation from clause 3.18.2(g)(2) - Auctions and eligible persons

8A.2.1 Definitions

In this *participant derogation*, rule 8A.2:

commencement date means the day the National Electricity Amendment (EnergyAustralia Participant Derogation (Settlement Residue Auctions)) Rule 2006 commences operation.

EnergyAustralia means the energy distributor known as EnergyAustralia and established under the Energy Services Corporations Act 1995 (NSW).

8A.2.2 Expiry date

This *participant derogation* expires on the earlier of:

- (1) 30 June 2012;
- (2) the date that EnergyAustralia's retail business is transferred to a new legal entity pursuant to a NSW Government restructure of EnergyAustralia or by any other means;
- (3) the date that EnergyAustralia ceases to engage in the activity of owning, controlling or operating a *transmission system*;
- (4) the first date after the commencement date on which EnergyAustralia engages in the activity of owning, controlling or operating a *transmission system* that NEMMCO determines, in accordance with the criteria developed pursuant to clause 5.6.3(i), is capable of having a material impact on *interconnector* capability; or
- (5) the date that EnergyAustralia is not excluded from entering into *SRD agreements* under clause 3.18.2(g)(2).

8A.2.3 Derogation

- (a) The reference in clause 3.18.2(g)(2) to *Transmission Network Service Provider* does not include EnergyAustralia.
- (b) If this *participant derogation* expires due to the occurrence of the event in clause 8A.2.2(4) of clause 8A2.2, then any *SRD agreement* between NEMMCO and EnergyAustralia which is in existence on that date, will terminate on that date.

8A.2A Derogation from inspection and testing of metering installations

8A.2A.1 Definitions

In this *participant derogation*, rule 8A.2A:

EnergyAustralia means the energy distributor known as EnergyAustralia and established under the Energy Services Corporations Act 1995 (NSW).

EnergyAustralia transmission metering installations means any type 2 and type 3 *metering installation* located at the interface between EnergyAustralia's *transmission network* and EnergyAustralia's *distribution network* in New South Wales on the date that the National Electricity Amendment (EnergyAustralia Participant Derogation (Metering Installations)) Rule 2006 commences operation.

expiry date means 1 July 2009 or the publishing of an expiration notice by the AEMC under clause 8A.2A.2(h) of this *participant derogation*.

report means a report in writing submitted by EnergyAustralia at 6 monthly intervals, which is prepared as soon as practicable after the EnergyAustralia transmission metering installations are tested, that outlines compliance of the EnergyAustralia transmission metering installations with the requirements of the derogated provisions of the *Rules* as identified in clause 8A.2A.2.

type 2 and type 3 metering installation means the meaning given to type 2 and type 3 *metering installations* in Chapter 7 of the *Rules*.

8A.2A.2 Derogation

- (a) Until the expiry date, the following clauses of the *Rules* (referred to as the **derogated provisions of the Rules**) do not apply to EnergyAustralia transmission *metering installations*:
 - (1) clause 7.3.1(a)(2);
 - (2) clause 7.3.4(a); and
 - (3) clause 7.6.1(a)(2).
- (b) Until the expiry date, the EnergyAustralia transmission *metering installations* and the *metering data* generated from them is taken to comply with the requirements of the derogated provisions of the *Rules*.
- (c) Until the expiry date, EnergyAustralia must provide a report to NEMMCO.
- (d) If NEMMCO is not satisfied that a report is satisfactory, NEMMCO may give notice to EnergyAustralia that it will recommend to the AEMC the issue of a notice under paragraph (f) if the next report continues to be unsatisfactory.
- (e) Where a report is unsatisfactory, NEMMCO may make appropriate adjustments to the *metering data* in the report to take account of errors in

that data, in order to minimise adjustments to the final *settlements* account or for any other requirement of the *Rules*.

- (f) If notice was given to EnergyAustralia under paragraph (d) and *NEMMCO* considers that the next report continues to be unsatisfactory, *NEMMCO* may recommend to the *AEMC* the issue of an expiration notice under paragraph (g).
- (g) If *NEMMCO* recommends to the *AEMC* the issue of an expiration notice, the *AEMC* may issue a notice having regard to that recommendation and the *national electricity objective*.
- (h) A notice must be published in the South Australian Government Gazette and takes effect 4 weeks after it is published.

Part 3 [Deleted]

Part 4 [Deleted]

Part 5 [Deleted]

Part 6 Derogations Granted to Victorian Market Participants

[Deleted]

Part 7 [Deleted]

Part 8 [Deleted]

Part 9 [Deleted]

Part 10 [Deleted]

Part 11 [Deleted]

Part 12 Ancillary Services Provisions

1. Transitional Arrangements

- (a) The Invitation to Tender issued by *NEMMCO* on 18 October 2000 (as amended from time to time) (called the **Third ITT**) is to be taken as having been a call for offers under clause 3.11.5 notwithstanding anything else in the *Rules* or the fact that the description and the procedure contemplated by clause 3.11.3 did not exist at the time the Third ITT was issued.
- (b) Notwithstanding anything else in the *Rules*:

- (1) the description of each *ancillary service* included in the Third ITT is deemed to be the description contemplated by clause 3.11.3; and
- (2) the quantities specified as indicative *NEMMCO* requirements in schedule A to the Third ITT in respect of the *power system* are to be taken to have been determined by applying a procedure developed under clause 3.11.3.

2. [Deleted]

Part 13 Derogation granted to Aurora Energy (Tamar Valley) Pty Ltd

8A.13 Derogation from clause S5.2.5.3 – Generating unit response to frequency disturbances

8A.13.1 Definitions

In this *participant derogation*, rule 8A.13:

AETV means Aurora Energy (Tamar Valley) Pty Ltd (ABN 29 123 391 613).

AETV generating systems means the *generating system* comprising AETV's Tamar Valley *power station*.

commencement date means the day the National Electricity Amendment (AETV Participant Derogation to Allow Operation of a New Power Station) Rule 2009 commences operation.

New Tasmanian frequency operating standards means the recommended Tasmanian *frequency operating standards* as determined by the *Reliability Panel* in its Final Report on the Tasmanian *Frequency Operating Standard* Review dated 18 December 2008, including but not limited to paragraph (h) in Part B of Appendix A of that Report.

Transend means Transend Networks Pty Limited (ABN 57 082 586 892).

8A.13.2 Expiry date

This *participant derogation* expires on the earlier of:

- (a) the date on which the New Tasmanian *frequency operating standards* commences operation in the Tasmanian *region*; and
 - (b) 31 December 2009
- (the **expiry date**).

8A.13.3 Derogation

- (a) Until the expiry date and subject to clause 8A.13.3(b), the *minimum access standard* which applies under clause S5.2.5.3(c) for the purposes of determining the *negotiated access standard* for the AETV *generating system* in relation to the technical requirements in clause S5.2.5.3, will be determined by reference to the New Tasmanian *frequency operating standards*.
- (b) Without limiting the rights and obligations of AETV, Transend and AEMO under clauses 5.3.4A and S5.2.5.3(c), any relevant arrangements which are required by the *Rules* until the expiry date, including:
 - (1) the details of the *protection system* which will trip the AETV *generating system* in accordance with the requirements of clause S5.2.5.3(c) if the *frequency* exceeds the level agreed with AEMO for the purposes of that clause; and
 - (2) the *frequency level* referred to in clause 8A.13.3(b)(1); and
 - (3) the implementation by AETV, Transend and/or AEMO of the limit referred to in paragraph (h) in Part B of Appendix A of the *Reliability Panel's* Final Report on Tasmanian *Frequency Operating Standards* Review dated 18 December 2008,

must be negotiated and agreed between AETV, Transend and AEMO before the AETV *generating system* is connected to Transend's *transmission system*.