

AER proposed amendments to Chapter 5:

The AER proposes amending the following clauses in Chapter 5, as set out below.

Deletions to the existing text in clauses are indicated by strikethrough. Additions to the existing text are indicated by yellow highlighting.

1.1. Proposed general changes to Chapter 5

CI 5.10.2 Definitions

De-rating means a reduction in the *network capability* of a *network element* in the *network* of the *network service provider*

Forward planning period means the period determined by the *Distribution Network Service Provider* under clause 5.12.1(a) or clause 5.13.1(a)(1).

Network retirement reporting guideline means the guideline published by the AER under clause 5.14A.1

RIT-D exemption report means a report published under clause 5.17.3A

RIT-T exemption report means a report published under clause 5.16.3A

~~**Replacement network transmission asset** mean a proposed new asset of a *Transmission Network Service Provider* which the relevant *Transmission Network Service Provider* reasonably estimates to have an estimated capital cost in excess of \$5 million (as varied in accordance with a cost threshold determination) and which will replace any existing element of its *transmission network*.~~

CI 5.11.2 Identification of network limitations

Each *Network Service Provider* must:

- (a) extrapolate the forecasts provided to it by *Registered Participants* for the purpose of planning;
- (a1) take into account whether planned asset retirements or *de-ratings* will give rise to *constraints* or an inability to meet the *network* performance requirements set out in schedule 5.1 or relevant legislation of a *participating jurisdiction* over the forward planning period;
- (b) if the analysis required by paragraphs (a) **and (a1)** indicates that any relevant technical limits of the *transmission or distribution systems* will be exceeded, either in normal conditions or following the contingencies specified in schedule 5.1, notify any affected *Registered Participants* and *AEMO* of these limitations; and

1.2. Proposed changes to the transmission APR:

CI 5.12.1. Transmission annual planning review

- (a) Each Transmission Network Service Provider must analyse the expected future operation of its transmission networks over an appropriate forward planning period, taking into account the relevant forecast loads, any future generation, market network service, demand side and transmission developments and any other relevant data.

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- (c) The minimum forward planning period for the purposes of the annual planning review is 10 years for transmission networks.

CI 5.12.2 Transmission Annual Planning Report

~~(7) for all proposed replacement transmission network assets:~~

~~(i) a brief description of the new replacement transmission network asset project, including location;~~

~~(ii) the date from which the Transmission Network Service Provider proposes that the proposed new replacement transmission network asset will become operational;~~

~~(iii) the purpose of the proposed new replacement transmission network asset;~~

~~(iv) a list of any reasonable network options or non-network options to the proposed new replacement transmission network asset which are being, or have been, considered by the Transmission Network Service Provider (if any). Those alternatives include, but are not limited to, interconnectors, generation options, demand side options, market network service options and options involving other transmission or distribution networks; and~~

~~(v) the Transmission Network Service Provider's estimated total capitalised expenditure on the proposed new replacement transmission network asset; and~~

(7) for all proposed retirements or *de-ratings* of transmission network assets, of the asset types outlined in the AER's *network retirement reporting guideline*, during the forward planning period:

(i) a brief description of the transmission network asset, including location

(ii) a detailed summary of the justification for the Transmission Network Service Provider's decision for the network asset to be retired or de-rated. The methodology used in justifying the retirement or de-rating of a transmission network asset must be consistent with the principles set out in the network retirement reporting guidelines;

(iii) the date from which the Transmission Network Service Provider proposes that the transmission network asset will be retired or *de-rated*;

- (iv) if the date to retire or *de-rate* the transmission network asset has changed since the previous *Transmission Annual Planning Report*, provide an explanation of why this has occurred;
- (v) details of any identified need giving rise to *reliability corrective action* (including assumptions which underpin the identified need) as a result of the retirement or de-rating of a transmission network asset, which the *Transmission Network Service Provider* will be required to address within the forward planning period whether independently or in combination with other decisions or factors,

(7A) where there is an identified need under clause 5.12.2(c)(7)(iv);

- (i) the proposed solution and other network options, *non-network options* or combined *network options* and *non-network options* which have been considered by the *Transmission Network Service Provider* to address the identified need and the estimated costs of those options;
- (ii) the technical characteristics a *non-network option* would be required to deliver to partially or fully address the identified need;
- (iii) when the *Transmission Network Service Provider* intends to commence a RIT-T consultation process, if the RIT-T is required in accordance with clause 5.16.4;
- (iv) whether the proposed solution will have a material inter-network impact. In assessing whether the proposed solution will have a material inter-network impact a *Transmission Network Service Provider* must have regard to the objective set of criteria published by AEMO in accordance with clause 5.21 (if any such criteria have been published by AEMO);

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(9) information on the *Transmission Network Service Provider's* asset management approach, including:

- (i) a summary of any asset management strategy employed by the *Transmission Network Service Provider*;
- (ii) a summary of any issues that may impact on the system limitations identified in the *Transmission Annual Planning Report* that has been identified through carrying out asset management; and
- (iii) information about where further information on the asset management strategy and methodology adopted by the *Transmission Network Service Provider* may be obtained;

1.3. Distribution APR:

Schedule 5.8 Distribution Annual Planning Report

(d1) for all proposed retirements or de-ratings of distribution network assets, of the asset types outlined in the AER's *network retirement reporting guideline*, during the forward planning period:

(i) a brief description of the distribution network asset, including location;

(ii) a detailed summary of the justification for the *Distribution Network Service Provider's* decision for the network asset to be retired or de-rated. The methodology to be used in justifying the retirement or de-rating of a distribution network asset shall be in accordance with the principles set out in the *network replacement reporting guideline*;

(iii) the date from which the *Distribution Network Service Provider* proposes that the distribution network asset will be retired or de-rated;

(iv) if the date to retire or de-rate the distribution network asset has changed since the previous *Distribution Annual Planning Report*, provide an explanation of why this has occurred;

(v) details of any identified need giving rise to *reliability corrective action* (including assumptions which underpin the identified need) as a result of the retirement or de-rating of a distribution network asset, which the *Distribution Network Service Provider* will be required to address within the forward planning period whether independently or in combination with other decisions or factors,

(d2) where there is an identified need under clause S5.8 (d1)(iv);

(i) the proposed solution and other *network options, non-network options* or combined *network options* and *non-network options* which have been considered by the *Distribution Network Service Provider* to address the identified need and the estimated costs of those options;

(ii) the technical characteristics a *non-network option* would be required to deliver to partially or fully address the identified need;

(iii) when the *Distribution Network Service Provider* intends to commence a RIT-D consultation process, if a RIT-D is required in accordance with clause 5.17.4;

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(g) a summary of all committed investments to be carried out within the forward planning period with an estimated capital cost of \$2 million or more (as varied by a cost threshold determination) that are to address

~~(1) a refurbishment or replacement need; or~~

~~(2) an urgent and unforeseen *network* issue as described in clause 5.17.3(a)(1),~~

including:

- (1) a brief description of the investment, including its purpose, its location, the estimated capital cost of the investment and an estimate of the date (month and year) the investment is expected to become operational;
- (2) a brief description of the alternative options considered by the *Distribution Network Service Provider* in deciding on the preferred investment, including an explanation of the ranking of these options to the committed project. Alternative options could include, but are not limited to, *generation* options, demand side options, and options involving other *distribution* or *transmission networks*;

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- (m) information on the *Distribution Network Service Provider's* investments in ~~metering or~~ information technology **and communication** systems related to management of network assets which occurred in the preceding year, and planned investments in ~~metering or~~ information technology **and communication systems related to management of network assets** in the forward planning period; and

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1.4. Cost thresholds

CI 5.15.3 Review of costs thresholds

Regulatory investment test for transmission thresholds

- (a) Every 3 years the *AER* must undertake a review of the changes in the input costs used to calculate the estimated capital costs in relation to:
 - ~~(1) replacement transmission network assets; and~~
 - (2) transmission investment as referred to in paragraphs (b)(2) to (6),
for the purposes of determining whether the cost thresholds specified in paragraph (b) need to be changed to maintain the appropriateness of the cost thresholds over time by adjusting those cost thresholds to reflect any increase or decrease in the input costs since:
 - (3) July 2009 in respect of the first cost threshold review; and
 - (4) the date of the previous review in respect of every subsequent cost threshold review.
- (b) For the purposes of paragraph (a), the cost thresholds for review are the following amounts:
 - ~~(1) in excess of \$5 million in relation to replacement transmission network assets;~~
 - (2) of less than \$5 million referred to in clause 5.16.3(a)(2);
 - ~~(3) of less than \$5 million referred to in clause 5.16.3(a)(4);~~
 - (4) of less than \$5 million referred to in clause 5.16.3(a)(5);

- (5) of less than \$35 million referred to in clause 5.16.4(z1)(1); and
- (6) in excess of \$5 million in relation to investment in transmission assets of the type referred to in the definition of potential transmission project in clause 5.10.2.

Regulatory investment test for distribution costs thresholds

- (c) Subject to paragraph (f)(2), every 3 years, and at the same time as it undertakes its review of the cost thresholds for *regulatory investment test for transmission* under paragraph (a), the AER must undertake a review of the changes in the input costs used to calculate the estimated capital costs in relation to:
 - (1) projects subject to the *regulatory investment test for distribution*; and
 - (2) the cost threshold for committed investments that are to address a ~~refurbishment or replacement need, or~~ an urgent and unforeseen *network need* subject to the *Distribution Annual Planning Report*,
for the purposes of determining whether the costs thresholds specified in paragraph (d) need to be changed to maintain the appropriateness of the cost thresholds over time by adjusting those cost thresholds to reflect any increase or decrease in the input costs since:
 - (3) 1 January 2013 in respect of the first cost threshold review; and
 - (4) the date of the previous review in respect of every subsequent cost threshold review.
- (d) For the purposes of paragraph (c), the cost thresholds for review are the following amounts:
 - (1) \$5 million referred to in clause 5.17.3(a)(2);
 - ~~(2) \$5 million referred to in clause 5.17.3(a)(6);~~
 - (3) \$10 million referred to in clause 5.17.4(n)(2);
 - (4) \$20 million referred to in clause 5.17.4(s);
 - (5) \$2 million referred to in S5.8(g).

1.5. Network retirement reporting guideline:

CI 5.14A.1 Development of network retirement reporting guidelines

- (a) The AER must, in accordance with the *transmission consultation procedures* and *distribution consultation procedures*, develop and publish a *network retirement reporting guideline* that complies with the requirements in paragraph (b).
- (b) The network retirement reporting guideline must set out:
 - (1) the types of network assets that are to be reported on in clause 5.12.2(7) and schedule 5.8(d1); and
 - (2) the principles which network service providers should follow when justifying the retirement or *de-rating* of a network asset.
- (c) In developing and amending the *network retirement reporting guideline*, the AER must:
 - (1) consider the ability of a *Network Service Provider* to provide the information and whether the costs of providing this information is greater than the likely benefits of the information being published in the APR;
 - (2) in determining whether a network asset type should be set out in the accordance with paragraph (b)(1), consider whether a type of network assets are likely to be retired individually or as part of an asset replacement program;
 - (3) in determining whether a network asset type should be set out in the accordance with paragraph (b)(1), consider whether there are likely to be alternatives to like-for-like replacement;
 - (4) ensure the *network replacement reporting guideline* is consistent with the principles of good asset management, including any applicable international standards;
 - (5) take into account the principles of prudence and efficiency and the substitution possibilities between operating and capital expenditure;
 - (6) differences between transmission and distribution
- (d) the AER must develop and publish the first *network retirement reporting guideline* under the Rules by [twelve months from the date of the final rule] and there must be a *network retirement reporting guideline* in force at all times after that date.

1.6. RIT-T and RIT-D amendments:

CI 5.16.3 Investments subject to the regulatory investment test for transmission

- (a) A RIT-T proponent must apply the *regulatory investment test for transmission* to a RIT-T project except in circumstances where:
- (1) the RIT-T project is required to address an urgent and unforeseen *network* issue that would otherwise put at risk the *reliability* of the *transmission network* as described in paragraph (b);
 - (2) the estimated capital cost of the most expensive option to address the identified need which is technically and economically feasible is less than **the applicable cost threshold under clause 5.15.3 \$5 million (as varied in accordance with a cost threshold determination)**;
 - (3) the RIT-T proponent publishes a RIT-T exemption report under clause 5.16.3A for the RIT-T project**
 - ~~(3) the proposed expenditure relates to maintenance or replacement and is not intended to augment the *transmission network* (including replacement *transmission network* assets);~~
 - ~~(4) the maintenance or replacement expenditure also results in an *augmentation* to the *network*, and the estimated capital cost for the *augmentation* component of the proposed expenditure is less than \$5 million (as varied in accordance with a cost threshold determination);~~
 - (5) the proposed relevant *network* investment is an investment undertaken by a *Transmission Network Service Provider* which:
 - (i) re-routes one or more paths of a *network* for the long term; and
 - (ii) has a substantial primary purpose other than the need to *augment* a *network*,
(a reconfiguration investment) and which the RIT-T proponent reasonably estimates to have an estimated capital cost of less than \$5 million (as varied in accordance with a cost threshold determination) or which has, or is likely to have, no material impact on *network* users;
 - (6) the identified need can only be addressed by expenditure on a *connection asset* which provides services other than *prescribed transmission services* or *standard control services*; or
 - (7) the cost of addressing the identified need is to be fully recovered through charges other than charges in respect of *prescribed transmission services* or *standard control services*.

CI 5.16.3A RIT-T exemption report

- (a) A RIT-T proponent may publish a RIT-T exemption report if
 - (1) an identified need for a RIT-T project arises, either partly or wholly as a result of a decision to retire a transmission asset, and
 - (2) the RIT-T proponent determines on reasonable grounds that the only credible option to address the identified need is like-for-like replacement
- (b) A RIT-T exemption report must be *published* on the RIT-T proponent's website. The exemption report must set out the reasons for the determination, including any methodologies and assumptions used in making the determination. It must include:
 - (1) a description of the identified need and the assumptions used in identifying the identified need (including in the case of proposed reliability corrective action, why the RIT-T proponent considers reliability corrective action is necessary);
 - (2) the technical characteristics of the identified need that an alternative credible option (including non-network option) would be required to deliver, such as:
 - (i) the size of *load* reduction or additional supply;
 - (ii) location; and
 - (iii) operating profile;
 - (3) whether the RIT-T proponent has undertaken any consultation with non-network proponents about the potential for a non-network solution to form all or part of a credible option to address the identified need
 - (4) the reasons why the RIT-T proponent considers that the only viable option to meet the identified need is like-for-like replacement
- (c) The RIT-T proponent must:
 - (1) provide a summary of the RIT-T exemption report to *AEMO* within 5 *business days* of publishing the report under paragraph(b); and
 - (2) upon request by an *interested party*, provide a copy of the RIT-T exemption report to that person within 3 *business days* of the request.
- (d) Within 3 *business days* of receipt of the summary, *AEMO* must *publish* the summary of the RIT-T exemption report on its website.
- (e) Subject to paragraph (f), if a RIT-T proponent publishes an exemption report under paragraph (a), it must not carry out a like for like replacement referred to in paragraph (a)(2):
 - (1) if no dispute is brought under clause 5.16.5 in relation to the exemption report, until at least 31 days after the publication of the exemption report, or

- (2) if a dispute is brought under clause 5.16.5 regarding the exemption report until the date on which the dispute is withdrawn or the AER makes a determination to reject the dispute.

whichever is later.

- (f) If a RIT-T proponent publishes an exemption report under paragraph (a), a dispute is brought under clause 5.16.5 and the AER makes a determination that the exemption report is noncompliant, the RIT-T proponent may not rely upon the exemption report to carry out a like for like replacement.

CI 5.16.4 Regulatory investment test for transmission procedures

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Reapplication of regulatory investment test for transmission

(z3) If:

- (1) a RIT-T proponent has *published* a final project assessment report in respect of a RIT-T project;
- (2) a *Network Service Provider* still wishes to commence the RIT-T project to address the identified need;
- (3) there has been a material change in circumstances which, in the reasonable opinion of the RIT-T proponent means that the preferred option identified in the final project assessment report is no longer the preferred option,

then the RIT-T proponent must reapply the *regulatory investment test for transmission* to the RIT-T project, unless otherwise determined by the AER.

(z4) For the purposes of paragraph (z3), a material change in circumstances may include, but is not limited to, a change to the key assumptions used in identifying:

- (1) the identified need described in the final project assessment report; or,
- (2) the credible options assessed in, the final project assessment report.

(z5) When making a determination under paragraph (z3) the AER must have regard to:

- (1) the credible options (other than the preferred option) identified in the final project assessment report;
- (2) the change in circumstances identified by the RIT-T proponent; and
- (3) whether a failure to promptly undertake the RIT-T project is likely to materially affect the *reliability* and *secure operating state* of the *transmission network* or a significant part of that *network*.

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5.16.5 Disputes in relation to application of regulatory investment test for transmission

(a1) *Registered Participants, the AEMC, Connection Applicants, Intending Participants, AEMO and interested parties* may, by notice to the AER, dispute conclusions made by the RIT-T proponent in the RIT-T exemption report, on the grounds that the RIT-T proponent has not applied the RIT-T exemption report in accordance with the Rules.

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(c) Within 30 days of the date of *publication* of the project assessment conclusions report under clause 5.16.4 (t), (u), (y) or (z) (as the case may be), **or the publication of an exemption report**, the party disputing a conclusion made in the project assessment conclusions report, **or the exemption report** (a disputing party) must:

- (1) give notice of the dispute in writing setting out the grounds for the dispute (the dispute notice) to the AER; and
- (2) at the same time, give a copy of the dispute notice to the RIT-T proponent.

(d) Subject to paragraph (f)(3), within 40 days of receipt of the dispute notice or within an additional period of up to 60 days where the AER notifies *interested parties* that the additional time is required to make a determination because of the complexity or difficulty of the issues involved, the AER must either:

- (1) reject any dispute by written notice to the person who initiated the dispute if the AER considers that the grounds for the dispute are misconceived or lacking in substance; and
- (2) notify the RIT-T proponent that the dispute has been rejected; or
- (3) subject to paragraph (f), make and *publish* a determination:
 - (i) directing the RIT-T proponent to amend the matters set out in the project assessment conclusions report; or
 - (ii) stating that, based on the grounds of the dispute, the RIT-T proponent will not be required to amend the project assessment conclusions report **or the exemption report (as the case may be); or**

(iii) stating that the exemption report is noncompliant.

(e) The RIT-T proponent must comply with an AER determination made under paragraph (d)(3)(i) within a timeframe specified by the AER in its determination.

(f) In making a determination under paragraph (d)(3), the AER:

- (1) must only take into account information and analysis that the RIT-T proponent could reasonably be expected to have considered or undertaken at the time that it **published the exemption report or performed the regulatory investment test for transmission;**
- (2) must *publish* its reasons for making a determination;

- (3) may request further information regarding the dispute from the disputing party or the RIT-T proponent in which case the period of time for rejecting a dispute or making a determination under paragraph (d) is extended by the time it takes the relevant party to provide the requested further information to the *AER*;
- (4) may disregard any matter raised by the disputing party or the RIT-T proponent that is misconceived or lacking in substance; and
- (5) where making a determination under subparagraph (d)(3)(i), must specify a reasonable timeframe for the RIT-T proponent to comply with the *AER*'s direction to amend the matters set out in the project assessment conclusions report.

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5.17 Regulatory investment test for distribution

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CI 5.17.3 Projects subject to the regulatory investment test for distribution

- (a) A RIT-D proponent must apply the *regulatory investment test for distribution* to a RIT-D project except in circumstances where:
 - (1) the RIT-D project is required to address an urgent and unforeseen *network* issue that would otherwise put at risk the reliability of the *distribution network* or a significant part of that *network* as described in paragraph (c);
 - (2) the estimated capital cost to the *Network Service Providers* affected by the RIT-D project of the most expensive potential credible option to address the identified need is less than \$5 million (as varied in accordance with a cost threshold determination);
 - (3) the cost of addressing the identified need is to be fully recovered through charges other than charges in respect of *standard control services* or *prescribed transmission services*;
 - (4) the identified need can only be addressed by expenditure on a *connection asset* which provides services other than *standard control services* or *prescribed transmission services*;
 - ~~(5) the RIT-D project is related to the refurbishment or replacement of existing assets and is not intended to *augment* a *network*; or~~
 - ~~(6) the refurbishment or replacement expenditure also results in an *augmentation* to the *network*, and the estimated capital cost of the most expensive potential credible option to address the identified need in respect of the *augmentation* component is less than \$5 million (as varied in accordance with a cost threshold determination).~~
 - (5) the RIT-D proponent publishes a RIT-D exemption report for the project

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CI 5.17.3A RIT-D exemption report

- (a) A RIT-D proponent may publish a RIT-D exemption report if:
 - (1) an identified need for a RIT-D project arises, either partly or wholly as a result of a decision to retire a distribution network asset; and
 - (2) the RIT-D proponent determines on reasonable grounds that the only viable credible option to meet the identified need is like-for-like replacement

- (b) A RIT-D exemption report must be published on the RIT-D proponent's website. The exemption report must set out the reasons for the determination, including any methodologies and assumptions used in making its determination. The exemption report must also include:
 - (1) a description of the identified need and the assumptions used in identifying the identified need (including in the case of proposed reliability correction action, why the RIT-D proponent considers reliability corrective action is necessary);
 - (2) the technical characteristics of the identified need that an alternative credible option (including non-network option) would be required to deliver, such as:
 - (i) the size of the load reduction or additional supply
 - (ii) location;
 - (iii) contribution to *power system security or reliability*
 - (iv) contribution to *power system* fault levels as determined under clause 4.6.1; and
 - (v) the operating profile;
 - (3) whether the RIT-D proponent has undertaken any consultation with non-network proponents about the potential for a non-network solution to form all or part of a credible option to address the identified need
 - (4) the reasons the RIT-D proponent considers that the only viable option to meet the identified need is like-for-like replacement

- (c) The RIT-D proponent must:
 - (1) provide a summary of the RIT-D exemption report to AEMO within 5 *business days* of publishing the report under paragraph (b); and
 - (2) upon request by an *interested party*, provide a copy of the RIT-D exemption report to that person within 3 *business days* of the request.

- (d) Within 3 *business days* of receipt of the summary, AEMO must *publish* the summary of the RIT-D exemption report on its website.

- (e) Subject to paragraph (f), if a RIT-D proponent publishes an exemption report under paragraph (a), it must not carry out a like for like replacement referred to in paragraph (a)(2):
 - (1) if no dispute is brought under clause 5.16.5 in relation to the exemption report, until at least 31 days after the publication of the exemption report, or
 - (2) if a dispute is brought under clause 5.16.5 regarding the exemption report until the date on which the dispute is withdrawn or the AER makes a determination to reject the dispute.
 whichever is later.
- (f) If a RIT-D proponent publishes an exemption report under paragraph (a), a dispute is brought under clause 5.16.5, and the AER makes a determination that the exemption report is noncompliant, the RIT-T proponent may not rely upon the exemption report to carry out a like for like replacement.

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CI 5.17.5 Disputes in relation to application of regulatory investment test for distribution

- (a1) *Registered Participants, the AEMC, Connection Applicants, Intending Participants, AEMO, interested parties,* and non-network providers may, by notice to the AER, dispute conclusions made by the RIT-D proponent in the RIT-D exemption report, on the grounds that the RIT-D proponent has not applied the RIT-D exemption report in accordance with the *Rules*.

...

- (c) Within 30 days of the date of *publication* of the final project assessment report under clause 5.17.4(o), (p) or (s) (as the case may be) **or the publication of an exemption report**, the party disputing matters in the final project assessment report **or the exemption report** (a disputing party) must:
 - (1) give notice of the dispute in writing setting out the grounds for the dispute (the dispute notice) to the AER; and
 - (2) at the same time, give a copy of the dispute notice to the RIT-D proponent.
- (d) Subject to paragraph (h), within 40 days of receipt of the dispute notice or within an additional period of up to 60 days where the AER notifies a relevant party that the additional time is required to make a determination because of the complexity or difficulty of the issues involved, the AER must either:
 - (1) reject any dispute by written notice to the person who initiated the dispute if the AER considers that the grounds for the dispute are invalid, misconceived or lacking in substance; and
 - (2) notify the RIT-D proponent that the dispute has been rejected; or
 - (3) subject to paragraph (f) and (g), make and *publish* a determination:

- (i) directing the RIT-D proponent to amend the matters set out in the final project assessment report; or
 - (ii) stating that, based on the grounds of the dispute, the RIT-D proponent will not be required to amend the final project assessment report **or the exemption report (as the case may be); or**
 - (iii) stating that the exemption report is noncompliant.**
- (e) A RIT-D proponent must comply with an *AER* determination made under subparagraph (d)(3)(i) within a timeframe specified by the *AER* in its determination.
- (f) In making a determination under paragraph (d)(3), the *AER*:
 - (1) must only take into account information and analysis that the RIT-D proponent could reasonably be expected to have considered or undertaken at the time that it **published the exemption report or** performed the *regulatory investment test for distribution*;
 - (2) must *publish* its reasons for making a determination;
 - (3) may disregard any matter raised by the disputing party or the RIT-D proponent that is misconceived or lacking in substance; and
 - (4) where making a determination under subparagraph (d)(3)(i), must specify a reasonable timeframe for the RIT-D proponent to comply with the *AER*'s direction to amend the matters set out in the final project assessment report.

....