



Australian Energy Market Commission

RULE DETERMINATION

NATIONAL ELECTRICITY AMENDMENT (EARLY IMPLEMENTATION OF ISP PRIORITY PROJECTS) RULE 2019

PROPONENT

Dr Kerry Schott AO

4 APRIL 2019

RULE

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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SUMMARY

- 1 The Australian Energy Market Commission (AEMC or Commission) has made a rule that may reduce the time taken to complete regulatory processes that follow the completion of the regulatory investment test for transmission (RIT-T) for three projects identified in the Australian Energy Market Operator's Integrated System Plan: these are minor upgrades to the Queensland-New South Wales Interconnector (QNI) and the Victoria-New South Wales Interconnector (VNI), and the proposed new interconnector between South Australia and New South Wales (known as Project EnergyConnect).
- 2 Each of these projects is identified as a contingent project in the relevant transmission businesses' revenue determinations. The businesses will not be entitled to earn revenue to cover the efficient costs of undertaking these projects unless all the trigger events for the contingent projects are met and the Australian Energy Regulator (AER) makes a determination to allow a revenue adjustment for the estimated efficient costs of the project. These trigger events include the completion of a RIT-T and an assessment by the AER that the preferred option identified in the RIT-T satisfies the RIT-T. This assessment cannot be completed if a dispute is raised with the RIT-T and is unresolved.
- 3 The final rule allows for the AER to concurrently consider post RIT-T regulatory processes that apply to the three projects. The final rule does not allow the AER to complete a step before the previous step has also been completed. It only allows a step to be commenced before the previous step has been completed. The final rule does not remove or change any of the regulatory steps for these projects other than to allow them to run concurrently.
- 4 The final rule has been made in response to two rule change requests submitted by Dr Kerry Schott AO, as Chair of the Energy Security Board, that were consolidated on 14 March 2019.
- 5 For the upgrades to QNI and VNI, the final rule permits the relevant transmission businesses to submit a request for a RIT-T preferred option assessment under clause 5.16.6 of the National Electricity Rules (NER) while the RIT-T dispute notification period of 30 days under clause 5.16.5(c) is still running. The AER cannot make a determination on a preferred option if a dispute is raised during the dispute notification period and has not been resolved. For the upgrades to QNI and VNI, as well as Project EnergyConnect, the final rule permits the relevant transmission businesses to submit an application for a contingent project revenue adjustment under clause 6A.8.2 of the NER before the AER has made a preferred option determination under clause 5.16.6. The AER cannot make its revenue decision before the preferred option determination is made.
- 6 The Commission received 20 submissions to the rule change request, the vast majority of which raised matters that concern the implementation of the regulatory process and are consequently matters for the AER, or which are outside the scope of the rule change request. However, a number of submissions noted it would be possible for the concurrent consideration of post RIT-T processes to apply to larger QNI and VNI projects than the minor upgrades identified in the ISP group 1 projects, if the relevant RIT-Ts identified preferred options that went beyond these smaller upgrades. The final rule is expressed to apply to specific contingent projects identified in the relevant transmission network service providers'

revenue determinations. So, the AER will only be permitted to run the processes concurrently where the preferred option identified in the RIT-T falls within the definition of an existing contingent project.

- 7 The Commission considers that the final rule improves the likelihood that the QNI and VNI upgrade projects, and Project EnergyConnect, will be delivered within the time frames required to support reliability, security and efficient outcomes for consumers in the national electricity market. Importantly, the final rule does not remove or change any steps in the regulatory process for the identified projects, but simply allows the AER to consider several processes concurrently.
- 8 The final rule is made in the context of the COAG Energy Council’s broader work program to convert the ISP into an actionable strategic plan, which is being progressed by the Energy Security Board. In addition to actioning the ISP more broadly, the COAG Energy Council has agreed to the Energy Security Board’s approach of streamlining regulatory processes for priority ISP projects.
- 9 The final rule also represents the completion of stage one (implement reforms that are necessary to advance ISP group 1 projects) of the reforms to the transmission framework that the Commission recommended in the final report published in December 2018 as part of the inaugural *Coordination of generation and transmission investment* review. The Commission has commenced work to progress the other recommendations it made in the final report to better coordinate investment in transmission infrastructure and new generation through the *Coordination of generation and transmission investment implementation - access and charging* review. This work is focused on examining how the risk of transmission investment can be more appropriately placed with market participants, rather than consumers, through reforms to current transmission access and charging arrangements in the national electricity market.
- 10 The expedited rule change process was used for this rule change. The Commission determined that it should make the rule as proposed in the rule change request, with amendments to improve the clarity of the rule drafting. The final rule commences on 11 April 2019.

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1 DR KERRY SCHOTT AO'S RULE CHANGE REQUEST

1.1 The rule change request

On 21 December 2018, Dr Kerry Schott AO, Chair of the Energy Security Board, (proponent) submitted a request to the Australian Energy Market Commission (AEMC or Commission) to make a rule that may reduce the time taken to complete regulatory processes that follow the completion of the regulatory investment tests for transmission (RIT-Ts) for minor upgrades to the Queensland-New South Wales interconnector (QNI) and the Victoria-New South Wales interconnector (VNI).¹

On 7 February 2019, Dr Kerry Schott AO submitted an additional request to the AEMC to make a rule that may reduce the time taken to complete regulatory processes that follow the completion of the South Australia Energy Transformation RIT-T. The RIT-T examined the costs and benefits of a new South Australia-New South Wales (SA-NSW) interconnector (known as Project EnergyConnect), as well as alternative non-network solution options.²

Given they both seek to streamline the same post RIT-T regulatory process, the Commission consolidated these two rule change requests into a single rule change request on 14 March 2019.

Dr Kerry Schott AO requested that the rule change request be considered a non-controversial³ rule change request and, as a result, be assessed under an expedited rule change process.

1.2 Background

1.2.1 ISP projects

Group 1 projects

AEMO published the inaugural ISP in July 2018. The ISP identifies transmission investments that AEMO states will be required in the national electricity market (NEM) over the next 20-30 years. The ISP grouped investments identified in the plan into three phases.⁴ The group 1 investment projects are those that AEMO considers should be progressed as soon as possible because AEMO considers them to provide immediate benefits. These projects are:⁵

- increase transfer capacity between Victoria, New South Wales and Queensland:
 - increase Victorian transfer capacity to New South Wales by 170 MW
 - increase Queensland transfer capacity to New South Wales by 190 MW
 - increase New South Wales transfer capacity to Queensland by 460 MW

1 These projects are listed as group 1 projects in the Australian Energy Market Operator's (AEMO's) inaugural Integrated System Plan (ISP).

2 This paper will refer to this new interconnector, and the regulatory processes associated with it, as relating to Project EnergyConnect.

3 Section 96 of the National Electricity Law (NEL).

4 This is based on the timing within which the identified network need is forecast to arise, and the time that may be needed to build infrastructure to address the need.

5 AEMO, *Integrated System Plan*, July 2018, p.81.

- access renewable energy in western and north-western Victoria
- remedy system strength in South Australia.

The increase in transfer capacity from Victoria to New South Wales involves a minor upgrade to VNI, and the increase in transfer capacity between Queensland and New South Wales involves a minor upgrade to QNI. The regulatory processes associated with these two projects have already commenced, with the RIT-T project specification consultation report for:

- VNI published in November 2018, which is being conducted as a joint RIT-T between AEMO and TransGrid
- QNI published in November 2018, which is being conducted as a joint RIT-T between TransGrid and Powerlink.

Group 2 projects

The ISP group 2 investment projects are of a larger scale and cost than those in group 1. The ISP stated that they require longer lead times to design and develop, however they also provide larger benefits if they have timely implementation. One of these group 2 projects is Project EnergyConnect which the ISP stated would improve resilience for South Australia and enable the connection of large amounts of renewable energy resources.⁶

The RIT-T for this project was completed on 13 February 2019 with the publication of a project assessment conclusions report.⁷ ElectraNet's RIT-T project specific consultation report stated that the identified need for the RIT-T is driven by allowing greater competition between generators in different regions, improving security of electricity supply in South Australia and facilitating the transition to lower carbon emissions and the adoption of new technologies.⁸

The outcome of the RIT-T was that a high-capacity interconnector between South Australia and New South Wales, with an added connection to north-west Victoria, is the preferred option to generate a range of benefits for South Australia, New South Wales and Victoria. These benefits were stated to include improved electricity affordability, energy and network security and the connection of renewable energy needed to meet Australia's carbon emissions targets. The proposed interconnector would be built between Robertstown in South Australia and Wagga Wagga via Buronga in New South Wales, with an added connection to Red Cliffs in north-west Victoria.

The dispute notification period for the RIT-T closed on 15 March 2019. A dispute notice was lodged on 15 March 2019 by the South Australian Council of Social Services, and the Australian Energy Regulator (AER) is currently assessing the dispute grounds raised by SACOSS before making a decision under the National Electricity Rules (NER).⁹

6 AEMO, *Integrated System Plan*, July 2018, p.8.

7 ElectraNet, SA Energy Transformation RIT-T: Project Assessment Conclusions Report, 13 February 2019.

8 ElectraNet, South Australian Energy Transformation, RIT-T: Project Specification Consultation Report, 7 November 2018, pp.3-5.

9 See: <https://www.electranet.com.au/projects/south-australian-energy-transformation/>

This rule change request relates to the post-RIT-T regulatory processes for the upgrades to QNI and VNI, and Project EnergyConnect.

1.2.2 **Energy Security Board's December 2018 report to the COAG Energy Council**

At the COAG Energy Council meeting on 10 August 2018, the Energy Security Board was requested to report in December 2018 on:

- how the group 1 projects in the ISP could be delivered as soon as practicable
- how group 2 and 3 projects should be progressed
- how the ISP would be converted into an actionable strategic plan¹⁰

On 19 December 2018, the Energy Security Board provided a report to the COAG Energy Council outlining how the points listed above should be addressed.¹¹ Responding to the report, the COAG Energy Council agreed to a recommendation made by the Energy Security Board that a rule change request be progressed to allow the AER to undertake post RIT-T regulatory processes concurrently for the QNI and VNI minor upgrades identified as group 1 projects in the ISP, reducing the time it would take to implement them.¹²

Also at the COAG Energy Council meeting on 19 December 2018, Ministers tasked the Energy Security Board to consider how these reforms could be applied to other priority projects such as Project EnergyConnect.

1.2.3 **The RIT-T and subsequent regulatory processes**

Under the NER, for investments in new or replacement transmission assets over \$6 million, transmission network service providers (TNSPs) are required to undertake a cost-benefit analysis (the RIT-T) of potential options. This cost-benefit analysis is conducted to determine the most appropriate solution for addressing a need (e.g. a forthcoming network constraint or limitation) on the transmission network, and whether addressing the need provides a net market benefit. The transmission business must consult with stakeholders when undertaking a RIT-T.

After a TNSP(s) has completed a RIT-T, but before the relevant network business is entitled to earn revenue that reflects the efficient cost of the investment, the NER provides for three processes to occur:

1. a dispute resolution process
2. a preferred option assessment process, and
3. where the RIT-T project is a contingent project, a contingent project assessment process to determine the revenue adjustment required to reflect the efficient costs associated with the contingent project.

These processes are explained in more detail in Appendix C.

¹⁰ COAG Energy Council, Meeting Communique, 10 August 2018.

¹¹ Energy Security Board, *Integrated System Plan - Action Plan*, 20 December 2018. See: <http://www.coagenergycouncil.gov.au/publications/integrated-system-plan-action-plan>

¹² COAG Energy Council, Meeting Communique, 19 December 2018, p.2.

The rule change request does not seek to change any of these existing processes, but rather seeks to allow:

- these **three** processes (the dispute resolution process, preferred option and contingent project assessments) to run concurrently for the VNI and QNI upgrades
- **two** of these processes (the preferred option and contingent project assessments) to run concurrently for Project EnergyConnect.

1.3 Rationale for the rule change request

QNI and VNI upgrade projects

Dr Kerry Schott AO considers it important that the QNI and VNI minor upgrades identified as group 1 projects in the ISP are able to be commissioned well before the likely retirement of the Liddell generator in New South Wales in 2022.¹³ RIT-T processes for the QNI and VNI upgrades commenced in November 2018,¹⁴ however, following the processes and time lines currently outlined in the NER would not result in these projects being completed before 2022. The rule change request states that the QNI project needs to be accelerated by at least 18 to 24 months, and the VNI upgrade needs to be sped up by approximately one year.

After the relevant TNSPs have completed the RIT-Ts that cover these projects, but before the TNSPs are entitled to earn revenue that reflects the efficient cost of the investments, the NER provides for three processes to occur, as set out in Appendix C.

Currently under clause 5.16.6(a), the AER cannot commence the assessment of whether a preferred option identified by a TNSP through a RIT-T satisfies the RIT-T until the 30 day RIT-T dispute notification period under clause 5.16.5 has passed. Further, a TNSP cannot submit an application for revenue adjustment under clause 6A.8.2 unless all trigger events for the contingent project have been satisfied, including the completion of a 5.16.6 assessment if this is a trigger event. Put simply, currently the end of the preceding process must be complete before the next process can commence.

Undertaking these processes sequentially influences the time lines for implementation of the QNI and VNI minor upgrade projects at a time when reliability in the NEM may be of critical concern.¹⁵

Project EnergyConnect

Project EnergyConnect is identified as a group 2 project in the ISP which seeks to increase capacity between SA and NSW with a new high capacity interconnector between the two states. In addition to enabling the connection of large amounts of renewable energy resources, the ISP states that this new interconnector would improve resilience for South Australia. The rule change request states that, at the December 2018 COAG Energy Council

13 Dr Kerry Schott AO, *Early implementation of ISP priority projects*, rule change request, 21 December 2018, p.3.

14 For QNI, see: <https://www.transgrid.com.au/what-we-do/projects/regulatory-investment-tests/Documents/QNI%20PSCR%20November%202018.pdf>. For VNI, see: https://www.aemo.com.au/-/media/Files/Electricity/NEM/Planning_and_Forecasting/Victorian_Transmission/2018/Victoria-to-New-South-Wales-Interconnector-Upgrade-RIT-T-PSCR.pdf

15 Dr Kerry Schott AO, *Early implementation of ISP priority projects*, rule change request, 21 December 2018, p.3.

meeting, the Energy Security Board was asked to consider how ISP priority projects such as Project EnergyConnect could be fast tracked.¹⁶

ElectraNet commenced a RIT-T for this project in November 2016, and the RIT-T process was completed on 13 February 2019.¹⁷ The rule change request seeks to streamline two of the post RIT-T processes undertaken by the AER (the preferred option and contingent project assessments) and so reduce the time taken for regulatory approval.¹⁸

1.4 Solution proposed in the rule change request

Dr Kerry Schott AO sought to resolve the issues discussed above by proposing a rule (proposed rule) to reduce the time between the completion of the RIT-Ts for the QNI and VNI minor upgrades and Project EnergyConnect, and the AER's approval of revenue associated with these projects, specifically by:

For the QNI and VNI minor upgrade projects -

- Allowing the AER to commence its preferred option assessment under clause 5.16.6 of the NER while the dispute notification period of 30 days under clause 5.16.5 is still running. The rule change request proposed that the AER would not be able to make a determination on a preferred option if a dispute is raised and has not been resolved.¹⁹

For the QNI and VNI minor upgrade projects and Project EnergyConnect -

- Permitting the relevant TNSP(s) to submit an application for a contingent project revenue adjustment before the AER has made a preferred option determination under clause 5.16.6.²⁰ The rule change request stated that this would be achieved by allowing the contingent project revenue application to be made despite the fact that one of the trigger events for the contingent project, the successful outcome of the preferred option analysis by the AER, would not have occurred. This would allow the AER to commence assessing the revenue application but it would not be permitted to make its revenue decision before the preferred option determination is made.²¹

The consolidated rule change request does not propose removing any steps in the regulatory process - just to allow the post RIT-T processes to be run concurrently, rather than sequentially, as described above. Furthermore, put simply, the rule change request does not allow the AER to complete a step before the preceding step has also been completed. It only allows a step to be commenced before a preceding step has been completed.

16 Dr Kerry Schott AO, *Streamlining regulatory processes for ISP Group 2 Project - South Australia Energy Transformation (SAET)*, rule change request, 14 February 2019, p.3.

17 The South Australian Council of Social Services lodged a RIT-T dispute notice on 15 March 2019, which is currently being assessed by the AER.

18 Provided the dispute lodged in relation to the RIT-T is resolved.

19 Unlike what is proposed for the QNI and VNI minor upgrades, the consolidated rule change request does **not** propose to allow the TNSP to submit a request to the AER for a preferred option assessment under clause 5.16.5 of the NER during the 30 day period in which a person can dispute the conclusions reached in the RIT-T under clause 5.16.5 for Project EnergyConnect. The Commission notes that the dispute notification period closed on 15 March 2019, and a dispute notice was lodged by the South Australian Council of Social Services.

20 This is not relevant for Victorian components of the works, since under the Victorian transmission planning framework, AEMO is not subject to the AER revenue determination process in order to recover funds from consumers.

21 Dr Kerry Schott AO, *Early implementation for ISP priority projects*, rule change request, 21 December 2018, p.2.

The rule change request states that, if made, and in the absence of a dispute notice being lodged, the proposed solution would have the effect of potentially reducing the time between the completion of the RIT-T and the AER's approval of revenue associated with the QNI and VNI minor upgrade projects by six to eight months.²² The rule change proposal states that, provided the rule is made:

- For QNI, if early works, design and equipment orders are placed prior to the AER's approval of revenue, then it is possible to meet the required time frame for QNI.
- For VNI, the project could meet its required time frame if planning approval processes are conducted expeditiously as priorities.²³

The rule change proposal states that, provided the rule is made, Project EnergyConnect will be able to be implemented more quickly, promoting reliability and security in the NEM at a time when there are generator retirements and an increasing proportion of intermittent generation in South Australia.²⁴

1.5 The rule making process

On 24 January 2019, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.²⁵ Consultation papers identifying specific issues for consultation were also published. Submissions on the consolidated rule change closed on 21 March 2019.

The Commission determined that the rule change request was a request for a non-controversial rule as defined in s. 96 of the NEL. Accordingly, the Commission commenced an expedited rule change process, subject to any written requests not to do so. The closing date for receipt of written requests was 7 March 2019 for the *ISP priority projects - SA Energy Transformation* rule change request, and 7 February 2019 for the *Early implementation of ISP priority projects* rule change request. These two requests were consolidated into a single rule change request on 14 March 2019.

No requests to not carry out an expedited rule change process were received. Accordingly, the rule change request was considered under an expedited process.²⁶

The Commission received 20 submissions, the vast majority of which raised matters that concern the implementation of the regulatory process and are consequently matters for the AER, or which are outside the scope of the rule change request. Issues that are not discussed in the body of this document have been summarised and responded to in Appendix A.

22 The rule change request states that this time saving will only be possible if the relevant TNSP is willing and able to involve the AER in the RIT-T as it is undertaken. Ibid.

23 Ibid, p.3.

24 Dr Kerry Schott AO, *Streamlining regulatory processes for ISP Group 2 Project - SA Energy Transformation*, rule change request, pp.3-4. The Commission notes that the faster implementation of Project EnergyConnect is also dependent on the RIT-T dispute that has been raised by the South Australian Council of Social Services being resolved.

25 The Commission published a notice on 21 February 2019 advising of its commencement of the rule making process and consultation in respect of the *ISP priority projects - SA Energy Transformation* rule change request, prior to it being consolidated with the *Early implementation of ISP priority projects* rule change request. These notices were published under s. 95 of the NEL.

26 Section 96 of the NEL.

2 FINAL RULE DETERMINATION

2.1 The Commission's final rule determination

The Commission's final rule determination is to make the final rule as proposed by Dr Kerry Schott AO, with amendments. The final rule allows for the post RIT-T regulatory processes for the QNI, VNI and Project EnergyConnect projects to be followed concurrently. The final rule does not remove any steps from the regulatory process for these projects, and the AER cannot conclude a subsequent regulatory step until the preceding step has been concluded.

The Commission's reasons for making this final rule determination are set out in section 2.4.

This chapter outlines:

- the rule making test for changes to the NER
- the assessment framework for considering the rule change request
- the Commission's consideration of the final rule against the national electricity objective.

Further information on the legal requirements for making this final rule determination is set out in Appendix B.

2.2 Rule making test

2.2.1 Achieving the NEO

Under the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).²⁷ This is the decision making framework that the Commission must apply.

The NEO is:²⁸

to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.

2.2.2 Making a differential rule

Under the Northern Territory legislation adopting the NEL, the Commission may make a differential rule if, having regard to any relevant Ministerial Council on Energy (MCE) statement of policy principles, a different rule will, or is likely to, better contribute to the achievement of the NEO than a uniform rule. A differential rule is a rule that:

- varies in its term as between:
 - the national electricity system, and
 - one or more, or all, of the local electricity systems, or

²⁷ Section 88 of the NEL.

²⁸ Section 7 of the NEL.

- does not have effect with respect to one or more of those systems but is not a jurisdictional derogation, participant derogation or rule that has effect with respect to an adoptive jurisdiction for the purpose of s. 91(8) of the NEL.

As the final rule is intended to apply to the QNI and VNI upgrade projects and Project EnergyConnect only (and those projects do not relate to the Northern Territory), the Commission does not consider that the proposed rule needs to be assessed against additional elements required by the Northern Territory legislation.²⁹

2.3 Assessment framework

In assessing the rule change request against the NEO the Commission has considered the following principles:

- **Making the three investments (i.e. minor QNI and VNI upgrades and Project EnergyConnect) at the right time:** A process which promotes making investment at the right time reduces the risk of price, reliability and/or security issues arising from investments that are too late.
- **Minimising inefficient increases in regulatory cost:** Increased regulatory costs are ultimately borne by consumers in the form of higher prices. The benefit of any increased regulatory activity needs to outweigh the costs in order for the change to be efficient.
- **Promoting certainty for the market about project status:** A process that minimises uncertainty in the market, or provides certainty earlier, promotes efficient outcomes designed to meet the reliability needs of the national electricity system.

The Commission considered if the benefits of the final rule outweigh the costs. The benefits of allowing post RIT-T regulatory processes undertaken by the AER to be conducted concurrently, as described in section 2.4, should outweigh the costs or risks of such a change.

2.4 Summary of reasons

The final rule made by the Commission is attached to and published with this final rule determination. The key features of the final rule are:³⁰

For the relevant RIT-T covering the VNI and QNI upgrade projects -

The relevant TNSP(s) is permitted to submit a request for a RIT-T preferred option assessment under clause 5.16.6 of the NER while the dispute notification period of 30 days under clause 5.16.5 of the NER is still running. The AER cannot make a determination on a preferred option if a dispute is raised and has not been resolved. The modifications to clause

²⁹ From 1 July 2016, the NER, as amended from time to time, apply in the NT, subject to derogations set out in regulations made under the NT legislation adopting the NEL. Under those regulations, only certain parts of the NER have been adopted in the NT. (See the AEMC website for the NER that applies in the NT.) National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

³⁰ The final rule will not apply to the Victorian components of the VNI upgrade and Project EnergyConnect given that different economic regulatory arrangements apply in Victoria. This issue was raised in the following submissions to the consultation paper: Clean Energy Council, 21 February 2019, p.2; Energy Networks Australia, 21 February 2019, p.2.

5.16.6 apply in respect of a preferred option identified in a RIT-T that is one of the specified contingent projects in the relevant TNSPs' revenue determinations.

The intent of this change to the NER is to streamline the regulatory process by allowing the AER to commence its RIT-T preferred option assessment during the dispute notification period so that, in the event that there are no dispute notifications lodged, the next step in the regulatory process is able to already be well under way. If the relevant TNSP(s) submit a request for a preferred option determination during the dispute notification period, and a dispute is subsequently lodged, the Commission considers it reasonable to expect that the AER would stop its RIT-T preferred option assessment until the dispute is resolved as resolution of the dispute may result in changes being required to the RIT-T project assessment conclusions report, including a revised preferred option.

For the relevant contingent projects covering the VNI and QNI upgrades and Project EnergyConnect -

The relevant TNSP(s) is permitted to submit an application for a contingent project revenue adjustment before the AER has made a preferred option determination under clause 5.16.6 of the NER.³¹ The AER cannot make its revenue decision before the preferred option determination is made. The modifications to clause 6A.8.2 apply in respect of one of the specified contingent projects in the relevant TNSPs' revenue determinations.

Regarding the practical effect of the final rule for all three projects, the Commission notes that:³²

- The final rule is expressed to apply to specific contingent projects identified in the relevant TNSPs' revenue determinations. These contingent projects have specified trigger events including the completion of a RIT-T and a preferred option determination under clause 5.16.6. So, the AER will only be permitted to run the processes concurrently where the preferred option identified in the RIT-T falls within the definition of an existing contingent project.
- A RIT-T preferred option assessment application is made in reference to a RIT-T that has been conducted, not a specific project. For example, in the case of the QNI upgrade RIT-T that has been commenced by TransGrid and Powerlink, the RIT-T is considering more than the ISP group 1 minor upgrade – the RIT-T will reveal the preferred option, which may or may not bear a resemblance to the projects identified in the ISP.³³
- The way in which the AER assesses what is in a contingent project application, and whether the relevant triggers that the AER has approved through a revenue

31 This would not be permissible under the current NER because the making of a preferred option determination under clause 5.16.6 is one of the specified contingent project trigger events for each of the projects.

32 Several stakeholders raised the issue in submissions to the consultation paper that, because the NER does not speak to specific projects, the proposed rule would result in concurrent consideration of post-RIT-T regulatory processes for projects that go beyond the minor upgrades to QNI and VNI identified in the ISP group one projects, and the new interconnector between South Australia and New South Wales identified in the ISP group 2 projects. Submissions to the consultation paper: AGL Energy, 22 February 2019, pp.1-2 and 20 March 2019, p.1; Clean Energy Council, 21 February 2019, p.2 and 20 March 2019, p.2; Energy Australia, 21 March 2019, p.2.

33 Similarly, the RIT-T for the VNI upgrade includes credible options that go beyond the ISP group 1 minor upgrade, and the preferred option for the South Australian Energy Transformation RIT involves a high-capacity interconnector between South Australia and New South Wales, as well as an added connection to north-west Victoria.

determination have been met, is a matter for the AER to determine when it receives the application for the revenue determination amendment. The final rule does not predetermine what should or should not be in a contingent project application submitted to the AER for any of the projects that are the subject of this rule change.

The final rule is largely the same as the proposed rule submitted by Dr Kerry Schott AO on 21 December 2019. The differences between the final rule and the proposed rule are limited to:

- applying the NER changes outlined at the beginning of this section to Project EnergyConnect following consolidation of the *Early implementation of ISP priority projects* rule change request with the *ISP priority projects - SA Energy Transformation* rule change request on 14 March 2019
- the ISP Projects definition being expanded to cover Powerlink's contingent project for the QNI upgrade project³⁴
- replacing the proposed amendment to clause 6A.8.2(i) to ensure the AER has a minimum of 40 business days after the preferred option determination under clause 5.16.6 is met to make its revenue decision.

Having regard to the issues raised in the rule change request and during consultation, the Commission is satisfied that the final rule will, or is likely to, contribute to the achievement of the NEO.

2.4.1 Making the three investments at the right time

The Commission considered whether the proposed rule would promote making investments at the right time to reduce the risk of price, reliability and/or security issues arising from investments that are too late. Any delay to the projects past their optimal implementation times will cause a delay to the projects' benefits being realised. This delay could result in possible wholesale price increases, reliability and/or security concerns in the NEM.

The Public Interest Advocacy Centre noted in its submission to the consultation paper that the NEO assessment criteria should also consider the potential impacts on the price-reliability trade-off should an investment be made too early, not just if it is made too late.³⁵ The RIT-T and post RIT-T processes themselves already contain provisions to consider the impact of too early an investment, i.e. an option isn't a preferred option if the net benefits are maximised by delaying it. The issue is that the processes themselves may inadvertently cause inefficient delay - this is the problem the final rule is seeking to address.

Dr Kerry Schott AO's consolidated rule change request states that it is important that QNI and VNI projects are able to be commissioned well before the likely retirement of the Liddell generator in NSW in 2022, and that their implementation needs to be sped up in order to meet this time frame. The consolidated rule change request also notes that, provided the rule is made, Project EnergyConnect will be able to be implemented more quickly, promoting

³⁴ This issue was raised by Powerlink in its submission to the consultation paper. Powerlink, submission to the *Early implementation of ISP priority projects* consultation paper, 21 February 2019, p.2.

³⁵ Public Interest Advocacy Centre, submission to the *ISP priority projects - SA Energy Transformation* consultation paper, 22 March 2019, p.1.

reliability and security in the NEM at a time when there are generator retirements and an increasing proportion of intermittent generation in South Australia.

The rule change proposal retains all of the regulatory steps for the three projects, and so retains the appropriate checks and balances on the investment, but allows for their concurrent consideration to reduce time frames between the completion of the RIT-T and when the AER makes a revenue determination.

As such, the proposed rule will streamline the post-RIT-T regulatory process for the three projects without removing or altering any of the steps that are designed to protect consumers from paying for inefficient investment. The final rule supports investment in transmission projects that will improve reliability and security in the NEM, thus supporting the efficiency of the power system for the benefit of consumers.

2.4.2

Minimising inefficient increases in regulatory cost

The Commission considered whether there would be an increase in regulatory costs associated with the proposed rule, and if so, whether such an increase would be efficient. That is, whether the benefit of any increased regulatory costs outweighs those costs.

The Public Interest Advocacy Centre stated in its submission to the consultation paper that the grounds for considering regulatory burden in the NEO assessment criteria should be reversed, noting that the rule change does not propose to add a new level of regulatory oversight.³⁶ The Public Interest Advocacy Centre suggested that the rule change will instead reduce it by adjusting existing processes and reducing the time given to the regulator to make its decisions. The Public Interest Advocacy Centre further suggested it is necessary to start the assessment from the basis of the current level of regulatory protections for consumers and that the burden of proof must involve demonstrating that the proposed change to the existing regulatory framework is necessary, and the reduced time-frames will result in efficiency benefits for consumers.³⁷

The final rule does not add a new level of regulatory oversight, however it also does not reduce regulatory oversight. The final rule does not remove or alter any of the steps in the current regulatory process. It simply allows a transmission business to submit a request to have a subsequent step commenced before the previous step has been finalised. The AER can still take the same amount of time to complete each step for the three projects, as is currently required for all other projects. As such, the grounds for considering regulatory burden in the NEO assessment criteria are appropriate.

Concurrent consideration of post RIT-T regulatory processes may result in increased administration costs for the AER. The proposed rule only allows for concurrent submission of applications for the various determinations outlined at the beginning of this section as they relate to minor upgrades to QNI and VNI, and Project EnergyConnect. The final rule does not require the AER to consider them concurrently.

³⁶ Ibid, p.2.

³⁷ Ibid.

Having noted this point, the intent of the final rule is that the AER will undertake concurrent consideration of the post RIT-T regulatory processes where appropriate, and as such, any increase in administration costs associated with AER officers' time would likely be minimal. The final rule does not seek to require the AER to undertake any work in addition to what it would be required to do under the current rules. It is possible that some revision of work already undertaken may be required as a result of the AER commencing a subsequent regulatory step before the preceding step has been finalised. Such re-work can reasonably be expected to be minor in nature, if it is necessary at all at any stage for each of the three projects.

While the potential for increased regulatory costs associated with the final rule are considered to be minimal, there are benefits associated with the potential reduction in time between the completion of the RIT-T and the AER making the contingent project revenue determination associated with each of the three projects as described above in section 2.4.1.

Therefore, the benefits of the final rule outweigh any associated increase in regulatory costs, which can reasonably be expected to be minor, if they eventuate at all.

2.4.3

Promoting certainty for the market about project status

The Commission considered whether the proposed rule would promote certainty for the market about the status of the QNI and VNI upgrade projects, and Project EnergyConnect. A process that minimises uncertainty in the market, or provides certainty earlier, promotes efficient outcomes designed to meet the reliability needs of the national electricity system.

This assessment criterion seeks to assess the effect of the final rule in reducing uncertainty in the market, rather than whether transmission investment decisions are being made at a time that will result in efficient outcomes for consumers, as covered in section 2.4.1.³⁸

In the present circumstances, uncertainty in the market can lead to inefficient decisions being made with regard to investment in transmission infrastructure and new generation. The availability of information to market participants about planned investments by transmission businesses assists in efficient investment decisions being made by other transmission businesses, as well as generator developers and consumers.

The final rule has the effect of potentially reducing the time it would take to complete post RIT-T regulatory processes for the three projects, and consequently may result in TNSPs being able to make investment decisions several months earlier than they otherwise would be able to. The final rule does not, however, remove anything from the regulatory process that is designed to protect consumers from inefficient investment. The three projects are still subject to existing regulatory checks and balances. In the present circumstances, the final rule promotes certainty for the market about the status of the three projects, signalling to the market where additional transmission capacity will be available in the future. This improves

³⁸ The Public Information Advocacy Centre suggested in its submission to the consultation paper that this assessment criterion is not necessary as it can largely be subsumed into the first criteria regarding the efficient timing of the investment. The submission further noted that it is not in the interest of consumers to build a large, capital-intensive project purely because the decision-making processes were locked in and unresponsive to changing conditions – this would provide high levels of investment certainty but in a way that was completely divorced from the actual timing or need for the investment itself. Ibid.

the quality of information available to other market participants to make efficient investment decisions, which ultimately benefits consumers.

ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
COAG	Council of Australian Governments
Commission	See AEMC
ISP	Integrated System Plan
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEM	National electricity market
NEO	National electricity objective
NER	National Electricity Rules
Project EnergyConnect	Preferred option for the South Australian Energy Transformation RIT-T
QNI	Queensland-New South Wales interconnector
RIT-T	Regulatory investment test for transmission
SA	South Australia
SAET	South Australian Energy Transformation RIT-T
TNSP	Transmission network service provider
VNI	Victoria - New South Wales interconnector

A SUMMARY OF OTHER ISSUES RAISED IN SUBMISSIONS

This appendix sets out the issues raised in consultation on this rule change request and the AEMC’s response to each issue. If an issue raised in a submission has been discussed in the main body of this document, it has not been included in this table.

Table A. 1: Summary of other issues raised in submissions

STAKEHOLDER	ISSUE	AEMC RESPONSE
QNI		
Powerlink, pp.2-3; TransGrid, 21 February 2019, p.2; 21 March 2019, p.3.	In making an amendment to a revenue determination for a contingent project, consideration may need to be given to how any incentive schemes that apply to them may need to be adjusted.	As with any revenue determination for a contingent project, this is a matter for the AER to consider.
Meridian Energy Australia, 21 February 2019, p.1	Despite the rule change, there remains a residual risk that QNI will not be completed ahead of 2022 when the perceived need is expected to arise.	This comment concerns broader issues that are outside the scope of the rule change request. As noted in section 1.4, the rule change request referenced further steps that could be taken to fast-track the QNI upgrade.
Powerlink, pp.2-3.	While the Energy Security Board is expected to provide a report to the COAG Energy Council by mid-2019 on a fund to underwrite early works (such as the procurement of major plant items) relating to ISP group 1 projects, these changes may not be implemented in time for the potential QNI upgrades. Early works associated with the QNI contingent project could potentially be penalised through incurring	This comment concerns broader issues that are outside the scope of the rule change request. As noted in section 1.4, the rule change request referenced further steps that could be taken to fast-track the QNI upgrade.

STAKEHOLDER	ISSUE	AEMC RESPONSE
	additional capex and opex not allowed for in the AER's 2017 regulatory determination, as well as through the incentive schemes.	
Powerlink, p.2; TransGrid, 21 February 2019, p.2.	Request clarity about whether contingent project applications can be submitted in stages.	Decisions about how contingent projects will be progressed are a matter for the AER to determine.
TransGrid, 21 March 2019, p.2.	It would be helpful if the AEMC makes it clear in the NER (for the QNI and VNI upgrades) that a TNSP can lodge an application under clause 5.16.6 of the NER for these projects while a dispute is being considered.	The final rule allows the relevant TNSPs to submit a preferred option determination request to the AER for the RIT-Ts covering upgrades to QNI and VNI during the 30 day RIT-T dispute notification period. If a dispute is notified during the 30 day period, it is a matter for the AER to consider an application for a clause 5.16.6 preferred option determination while the dispute is being resolved. In circumstances where the resolution of the dispute results in an amendment to the RIT-T project assessment conclusions report, a 5.16.6 preferred option application is likely to have to be resubmitted to the AER.
VNI		
Major Energy Users, 18 February 2019, p.2.	The proposed upgrade for VNI does not include any proposal to increase the southward flow when there is surplus capacity in NSW, but insufficient generation to meet demand in Victoria.	This comment concerns broader issues that are outside the scope of the rule change request.

STAKEHOLDER	ISSUE	AEMC RESPONSE
Project EnergyConnect		
Energy Networks Australia, 21 March 2019, p.2; ElectraNet, p.4; TransGrid, 21 March 2019, p.2.	Recommend that a provision be included in the final rule allowing for the processing of a 5.16.6 determination and contingent project application concurrently with a dispute.	The final rule allows concurrent consideration of the RIT-T preferred option assessment and contingent project application only. We consider it is a matter for the AER as to whether it commences consideration of a preferred option assessment during the dispute resolution period.
Energy Networks Australia, 21 March 2019, p.3.	Recommend that the final rule include reference to both ElectraNet’s revenue determination where this contingent project is called South Australian Energy transformation, and also TransGrid’s revenue determination where this project is called the New South Wales to South Australia interconnector.	These references have been included in the final rule.
Energy Networks Australia, 21 March 2019, p.3; ElectraNet, p.4.	Recommend a transitional provision be included in the final rule to cater for the possibility that ElectraNet may have already requested the AER to make a decision on this project under clause 5.16.6 of the NER before 18 April 2019.	A transitional clause was not required as the final rule and determination were published before ElectraNet made such a request.
Major Energy Users, 20 March 2019, p.2; Public Interest Advocacy Centre, p.2.	Concerned that the proposed changes could set a precedent for other transmission projects.	The final rule allows for the concurrent consideration of post-RIT-T regulatory processes for upgrades to QNI and VNI, and EnergyConnect only. Any consideration of applying these changes more broadly could be something considered through the Energy Security Board’s actioning of the ISP process.

STAKEHOLDER	ISSUE	AEMC RESPONSE
		This follows the <i>Integrated System Plan - Action Plan</i> report the Energy Security Board submitted to the COAG Energy Council in December 2019.
Energy Australia, p.2.	Do not support the proposed changes to the post-RIT-T regulatory process for the SAET project based on the outcomes of the SAET RIT-T.	The final rule does not remove any steps from the regulatory process, and the AER is still required to complete all of the necessary reviews that exist to protect consumers from inefficient investment, including resolving the dispute raised in respect of the RIT-T.

NEO assessment criteria

Origin Energy, p.1.	<p>The AEMC should take the following issues into account when making a final determination:</p> <ul style="list-style-type: none"> • Whether there are any underlying reasons (including practical/logistical issues) for the current sequential approach to the AER's post RIT-T process; and • If there is any potential for unintended or adverse consequences if there is a move to the proposed consolidated process. Both should be a part of the AEMC's assessment process. 	Both of these issues were a part of the AEMC's analysis.
Neoen, p.2.	In addition to the NEO assessment framework criteria identified by the AEMC in the consultation paper, the AEMC should also assess the benefits of any reduced regulatory activity both in terms of lower costs to consumers, and	The rule change request does not propose to remove any steps in the regulatory process, and so the rule change is unlikely to reduce regulatory costs. The RIT-T is designed to protect consumers from inefficient investment.

STAKEHOLDER	ISSUE	AEMC RESPONSE
	in providing the required energy and system security in time for when they are required.	
Other issues		
Meridian Energy Australia, 20 March 2019, p.1	The two rule change requests from Dr Kerry Schott AO to streamline the regulatory process for three ISP projects should be consolidated.	The rule change requests were consolidated on 14 March 2019.
Neoen, p.2.	ISP group 1 projects should be exempt from completing a RIT-T, and the AER should be required to amend, within 3 months of receiving the TNSP's proposed amendments, the most recent revenue determination of each of the relevant TNSPs to add appropriate allowances for the new projects.	This comment concerns broader issues that are outside the scope of the rule change request. The Commission considers it important that the current checks and balances on the regulatory process, and so revenue recovered from consumers, are preserved.
ERM Power, p.2.	The RIT-T process should be improved by having modelling services independent of the proponents conduct RIT-T analysis, and that this should be coordinated by the AER.	This comment is outside the scope of the rule change request, however, it could be something for consideration through the Energy Security Board's actioning of the ISP process. This follows the <i>Integrated System Plan - Action Plan</i> report the Energy Security Board submitted to the COAG Energy Council in December 2019.
TransGrid, 21 March 2019, p.2.	Policy and regulatory certainty is an important factor in the consideration of investment by shareholders. Therefore, TransGrid urges policy-makers and regulators to consider the broader context of their decisions, including the cumulative effect of policy and regulatory	This comment concerns broader issues that are outside the scope of the rule change request.

STAKEHOLDER	ISSUE	AEMC RESPONSE
	<p>interventions (such as the removal of merits review, lowering the rate of return and potential for stranded asset risk) on transmission investment. Such interventions have the potential to undermine efficient transmission investment and the benefits it brings to consumers.</p>	
<p>Energy Networks Australia, 21 March 2019, pp.2-3; TransGrid, 21 February, p.2 and 21 March 2019, p.2; Clean Energy Council, 21 February 2019, p.2; Powerlink p.2.</p>	<p>Concern about the requirement in the NER that a TNSP cannot submit an application for a contingent project revenue determination for 90 business days (4.5 months) prior to the end of the regulatory year (30 June), stating that this could create an unnecessary delay to an ISP priority project being assessed for cost recovery. This rule change should follow the expedited process to ensure that a contingent project application for Project EnergyConnect can be submitted prior to 1 July 2019.</p>	<p>Dr Kerry Schott AO has submitted a rule change request to the AEMC to remove this requirement for all transmission and distribution contingent projects. The rule change request was initiated as an expedited rule change on 14 March 2019, and no objections to the expedited process were received.</p>
<p>John Herbst, pp.1-2.</p>	<p>The AEMC should reject the rule change request on the basis that it adds risk for South Australian consumers and may cause the AER to do unnecessary work on an inefficient project (question whether forecasts are accurate and suggest that assumptions used were false). Additionally, the benefits of early commencement of the project do not clearly outweigh the prudence of following established</p>	<p>The modelling used to identify the proposed projects in the ISP is outside the scope of the rule change request. We recognise that the AER may do unnecessary work (this is the key downside of the rule), but on balance we think the rule change request is appropriate.</p>

Rule determination

Early implementation of ISP priority projects
4 April 2019

STAKEHOLDER	ISSUE	AEMC RESPONSE
	rules. Amending the NER for particular projects also does not seem like the best way to approach timing problems.	

B LEGAL REQUIREMENTS UNDER THE NEL

This appendix sets out the relevant legal requirements under the NEL for the AEMC to make this final rule determination.

B.1 Final rule determination

In accordance with s 103 of the NEL the Commission has made a final rule in relation to the rule proposed by Dr Kerry Schott AO.

The Commission's reasons for making this final rule determination are set out in section 2.4.

A copy of the final rule is attached to and published with this final rule determination. Its key features are described in section 2.4.

B.2 Power to make the rule

The Commission is satisfied that the final rule falls within the subject matter about which the Commission may make rules. The final rule falls within s. 34(1)(iii) of the NEL as it relates to regulating the activities of persons involved in the operation of the national electricity system.

B.3 Commission's considerations

In assessing the rule change request the Commission considered:

- its powers under the NEL to make the rule
- the rule change request
- submissions received during consultation
- the Commission's analysis as to the ways in which the proposed rule will, or is likely to, contribute to the NEO.

There is no relevant MCE statement of policy principles for this rule change request.³⁹

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of AEMO's declared network and system functions.⁴⁰ The final rule is compatible with AEMO's declared network and system functions because it does not affect the performance of the functions at all.

B.4 Civil penalties

The Commission cannot create new civil penalty provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NER be classified as civil penalty provisions.

³⁹ Under s. 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the COAG Energy Council.

⁴⁰ Section 91(8) of the NEL.

The final rule does not amend any clauses that are currently classified as civil penalty provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as civil penalty provisions.

B.5 Conduct provisions

The Commission cannot create new conduct provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NER be classified as conduct provisions.

The final rule does not amend any rules that are currently classified as conduct provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as conduct provisions.

C REGULATORY PROCESSES THAT FOLLOW A RIT-T

RIT-T dispute process

A broad range of parties, including registered participants, the AEMC, AEMO and connection applicants, are able to raise a dispute in regard to defined components of the conclusions set out in the final report published at the conclusion of a regulatory investment test process.⁴¹ Notice of the dispute has to be provided within 30 days of the relevant transmission business publishing the final report for the RIT-T.⁴² The AER has to make a determination either rejecting the dispute or publishing a determination setting out whether the network business will be required to amend the conclusions report within 40 days of the receipt of the notice. The time frame for the AER to consider a dispute can be extended by an additional period of up to 60 days. The AER may only require amendment of the RIT-T project assessment conclusions report where it finds that the RIT-T proponent has:

- not correctly applied the RIT-T in accordance with the NER
- erroneously classified the preferred option as being for reliability corrective action
- not correctly assessed whether the preferred option will have a material inter-network impact, or
- made a manifest error in calculations when applying the RIT-T.

A 5.16.6 determination - the preferred option assessment

Under the current arrangements, after the expiry of the 30 day period that parties have to dispute the conclusions made in the RIT-T project assessment conclusions report, and where a preferred option identified through the RIT-T is not for reliability corrective action, the RIT-T proponent may request, in writing to the AER, that the AER make a determination as to whether the preferred option satisfies the RIT-T. If this occurs then the AER:

- must, within 120 business days of receipt of the request from the applicant, make a determination, and specify reasons for its determination⁴³
- must use the findings and recommendations in the project assessment conclusions report in making its determination
- may request further information from the RIT-T proponent
- may have regard to any other matter the AER considers relevant.

These determinations typically take around six months to complete.

Revenue approval - contingent project assessment

The economic regulatory regime allows for limited circumstances in which the maximum allowed network revenue under a transmission businesses' revenue determination can be adjusted during the five-year regulatory control period. One way in which this can happen is

⁴¹ The defined components that can be disputed are set out in NER clause 5.16.5(a).

⁴² For a summary of the RIT-T process, see section 5.3.2 of the options paper published as part of the *Coordination of generation and transmission investment review*, which can be found here: <https://www.aemc.gov.au/sites/default/files/2018-09/Options%20paper.pdf>

⁴³ This time may be extended where the AER requires further information from the proponent.

through the contingent projects mechanism if there are contingent projects identified in the revenue determination. The revenue determination may specify as contingent projects large discrete projects that are uncertain in terms of their need or timing at the start of the regulatory control period. If they are considered necessary during the regulatory period (on the basis of pre-determined triggers, which is specified in the TNSP's revenue determination), the AER must then make a decision as to whether the trigger events for the contingent project have occurred. The AER must also determine the amount of capital and operating expenditure reasonably required to undertake the project and the impact of allowing such expenditure as revenue. Most of the projects identified in the ISP have been identified in TNSPs' revenue determinations as contingent projects.⁴⁴

Most contingent projects that the AER has approved in recent revenue determinations have as a trigger event the successful completion of the RIT-T and the AER's preferred option assessment of the RIT-T under clause 5.16.6 of the NER.

⁴⁴ The QNI, VNI and EnergyConnect projects that are the subject of this rule change are specified as contingent projects in the relevant TNSPs' revenue determinations.