



National Electricity Amendment (Establishing revenue determinations for Intending TNSPs) Rule 2022 No. 12

under the National Electricity Law to the extent applied by:

- (a) the National Electricity (South Australia) Act 1996 of South Australia;
- (b) the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;
- (c) the Electricity - National Scheme (Queensland) Act 1997 of Queensland;
- (d) the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;
- (e) the National Electricity (New South Wales) Act 1997 of New South Wales;
- (f) the National Electricity (Victoria) Act 2005 of Victoria;
- (g) the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 of the Northern Territory; and
- (h) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Electricity Law.

Anna Collyer
Chairperson
Australian Energy Market Commission

National Electricity Amendment (Establishing revenue determinations for Intending TNSPs) Rule 2022 No. 12

1 Title of Rule

This Rule is the *National Electricity Amendment (Establishing revenue determinations for Intending TNSPs) Rule 2022 No. 12*.

2 Commencement

This Rule commences operation on 20 January 2023.

3 Amendment to the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 1.

4 Savings and Transitional Amendment to the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 2.

Schedule 1 Amendment to the National Electricity Rules

(Clause 3)

[1] Clause 2.5.2 Market Network Service

Omit clause 2.5.2(c) and substitute:

- (c) If an existing *network service* ceases to be classified as a *market network service*, the *AER* may at its discretion determine the service to be a *prescribed transmission service* or a *direct control service*. In that case, the *AER* may make a *transmission determination* or *distribution determination* or may make consequential changes to an existing *transmission determination* or *distribution determination* (as the case requires) to accommodate the service.

[2] Chapter 6A New Part D

Omit Part D and substitute:

Part D Intending TNSPs

6A.9 Transmission determination process for Intending TNSPs

6A.9.1 Application and defined terms

- (a) This rule applies to and in respect of the making of a *transmission determination* for proposed prescribed transmission services.
- (b) In this rule:

commencement and process paper means a document prepared and issued as a commencement and process paper under clause 6A.9.2(g).

converting transmission system means a *transmission system* that provides *market network services* and in respect of which the *Market Network Service Provider* has applied to the *AER* to determine the service to be a *prescribed transmission service*.

Intending TNSP means:

- (a) an *Intending Participant* who intends to provide *prescribed transmission services* by means of its proposed *transmission system*; or
- (b) a *Market Network Service Provider* who intends to provide *prescribed transmission services* by means of its converting transmission system,

and in this rule, includes that person once registered as a *Network Service Provider* for the provision of *prescribed transmission services* by means of its *transmission system*.

proposed prescribed transmission services means *prescribed transmission services* to be provided by means of:

- (a) a proposed *transmission system*; or
- (b) a converting transmission system.

6A.9.2 Request to commence and determine the process and AER decisions

- (a) An Intending TNSP may request the *AER* to:
 - (1) commence the process for making a *transmission determination* relating to its proposed prescribed transmission services; and
 - (2) determine the process to apply when making the *transmission determination*.
- (b) In addition to addressing the matters referred to in paragraph (e) applicable to the Intending TNSP, a request submitted under paragraph (a) must include:
 - (1) the Intending TNSP's proposed timetable for the matters to be determined by the *AER* in accordance with clause 6A.9.3 and supporting information; and
 - (2) any other information required by the *AER* in accordance with any guidance it may *publish* for this purpose.
- (c) A request submitted under paragraph (a) must identify any parts of the request the Intending TNSP claims to be confidential and wants suppressed from publication on that ground in accordance with the *Transmission Confidentiality Guidelines*.
- (d) Subject to the provisions of the *NEL*, the *Rules* and the *Transmission Confidentiality Guidelines*, the *AER* must, by the date it *publishes* notice of its decision under paragraph (f), *publish* the application and, if the Intending TNSP has identified any part of the application to be confidential, a notice that sets out the fact that the application contains information over which a claim of confidentiality has been made.
- (e) In determining whether to commence the process for making a *transmission determination* requested by an Intending TNSP under paragraph (a), the *AER* may have regard to any matters it considers appropriate, including:
 - (1) whether the Intending TNSP intends to deliver an *actionable ISP project* or a project that is not an *actionable ISP project* but has been subject to the *regulatory investment test for transmission*;
 - (2) the likelihood of the Intending TNSP delivering that project; and

- (3) in the case of a converting transmission system, the Intending TNSP's application to the *AER* to determine the service to be a *prescribed transmission service*.
- (f) Within 40 *business days* of a request under paragraph (a), the *AER* must *publish* a notice of the *AER*'s decision whether to commence the *transmission determination* process and if the *AER* decides not to commence the *transmission determination* process, reasons for its decision.
- (g) If the *AER* decides to commence the *transmission determination* process, the *AER* must within 40 *business days* of the request under paragraph (a), make and *publish* a document (a commencement and process paper) that sets out the matters provided for in clause 6A.9.3.
- (h) The *AER* may, with the agreement of the Intending TNSP, extend the 40 *business day* period under paragraph (g).

6A.9.3 Commencement and process paper

- (a) This clause applies if the *AER* decides to commence a *transmission determination* process for proposed prescribed transmission services.
- (b) A commencement and process paper must:
 - (1) specify the commencement date for the first *regulatory year* of the *regulatory control period* to which the *transmission determination* will apply, which must coincide with the start of a *financial year*;
 - (2) specify the date, or the manner in which the date is to be determined, by which the Intending TNSP must submit:
 - (i) its initial *Revenue Proposal* under clause 6A.10.1; and
 - (ii) where applicable, its initial proposed *pricing methodology* and other matters required under clause 6A.10.1;
 - (3) where applicable, specify the modifications to the process for making *transmission determinations* under this Chapter determined by the *AER* for the proposed prescribed transmission services; and
 - (4) for a proposed *transmission system*, specify the arrangements to apply, or methodologies to be used or how those methodologies are to be determined, to give effect to the matters provided for in clause 6A.9.4(a).
- (c) Where the *AER* decides to complete the *transmission determination* for a proposed *transmission system* in more than one stage, a commencement and process paper must specify:

- (1) which of the matters in rule 6A.14 the *AER* will determine in each stage; and
 - (2) any related changes to the obligations of the Intending TNSP to provide information to the *AER* under this Chapter.
- (d) Without limitation, the modifications to the process for making *transmission determinations* under this Chapter determined by the *AER* and set out in a commencement and process paper may:
- (1) omit or defer the steps provided for in clause 6A.10.1A or 6A.10.1B, where the *AER* is satisfied the matters will be addressed, or information provided, in another way;
 - (2) change the timetable or process for making draft decisions or final decisions in Part E, which may include, with the consent of the Intending TNSP, omitting a draft decision stage or shortening consultation periods if the *AER* is reasonably satisfied that:
 - (i) in the circumstances, the timetable or process would otherwise place a disproportionate administrative burden on the *AER* or the Intending TNSP; and
 - (ii) there will be no material adverse impact on other stakeholders or the decision-making framework in Part E;
 - (3) allow the Intending TNSP, prior to the commencement of the first *regulatory control period*, to apply to the *AER* to include in the *revenue determination* amounts determined in accordance with clause 6A.8.2;
 - (4) for a converting transmission system:
 - (i) allow the conversion application process and the *transmission determination* process to be run concurrently; and
 - (ii) enable information or decisions made for one process to be used, or adopted, for the other.
- (e) In connection with the initial *transmission determination* for proposed prescribed transmission services and where applicable, any other *transmission determination* that includes a period before the date on which *prescribed transmission services* are first provided, this Chapter applies to an Intending TNSP and the *AER* subject to:
- (1) any modifications specified in the applicable commencement and process paper; and
 - (2) clause 6A.9.4.
- (f) The *AER* may, on the application of the relevant Intending TNSP, amend a commencement and process paper if the *AER* is satisfied that

circumstances have arisen such that the amendment is reasonably necessary.

- (g) The *AER* must promptly *publish* any amended commencement and process paper made under paragraph (f).

6A.9.4 Transmission determinations for proposed transmission systems of Intending TNSPs

- (a) A *revenue determination* for a proposed *transmission system* may, despite anything to the contrary in this Chapter, provide for capitalisation of a return on capital (calculated using the *allowed rate of return*) in respect of any period in a *regulatory control period* prior to the date on which *prescribed transmission services* are first provided.
- (b) A *transmission determination* for a proposed *transmission system* may:
 - (1) despite clause 6A.4.2(c), specify a *regulatory control period* of less than 5 *regulatory years*;
 - (2) include amounts determined in accordance with clause 6A.8.2 if, for an *actionable ISP project*, the trigger event under clause 5.16A.5 has occurred; or
 - (3) if no *prescribed transmission services* are expected to be provided at any time during that *regulatory control period*, exclude from the *transmission determination* some of the decisions that would otherwise be made by the *AER* under rule 6A.14.
- (c) A *transmission determination* for a proposed *transmission system* or a converting transmission system must specify the date from which *prescribed transmission services* will commence or the manner in which the date is to be determined.

Schedule 2 Savings and Transitional Amendment to the National Electricity Rules

(Clause 4)

[1] New Part ZZZZZF Transitional arrangements for Intending TNSPs

In Chapter 11, after Part ZZZZZE, insert a new Part:

Part ZZZZZF Establishing revenue determinations for Intending TNSPs

11.156 Transitional rules in the National Electricity Amendment (Establishing revenue determinations for Intending TNSPs) Rule 2022

11.156.1 Definitions

In this rule:

Amending Rule means the *National Electricity Amendment (Establishing revenue determinations for Intending TNSPs) Rule 2022*.

new rule 6A.9 means rule 6A.9 inserted by the Amending Rule.

11.156.2 Basslink transmission system

Nothing in clause 11.6.20(c) limits the application of new rule 6A.9 to a *network service* provided by means of, or in connection with, the Basslink transmission system (as defined in clause 11.6.20) that is a proposed prescribed transmission service (as defined in new rule 6A.9).

[END OF RULE AS MADE]
