



Rule change proposal

**Economic regulation of transmission and
distribution network service providers**

**AER's proposed changes to the
National Electricity Rules**

Part C – Draft Rules

September 2011

For the purposes of section 92 of the *National Electricity Law*, this rule change is proposed by:

Proponent	Australian Energy Regulator (AER)
Street address	Level 35, The Tower 360 Elizabeth Street Melbourne Central Melbourne VIC 3000
Postal address	GPO Box 520 Melbourne VIC 3001
Phone and fax numbers	Tel: (03) 9290 1444 Fax: (03) 9290 1457
Contact officer	Ross Mitchell Tel: (02) 9230 9127

This Part C of this rule change proposal sets out drafts of the proposed Rules to be made.

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1 Chapter 6

1.1 Tables of draft rules

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Table 1.1 Proposed rule change: forecasts of capital expenditure and operating expenditure

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.1]	6.5.6(c)(1) 6.5.6(c)(2) 6.5.6(c)(3) 6.5.6(d)	6.5.6(c)	Revision to: <ul style="list-style-type: none">– remove the requirement that the AER is to accept or reject the DNSP’s proposed forecast opex;– remove the opex criteria; and– provide that the AER is to determine the forecast opex that it considers would meet the efficient costs that a prudent DNSP would require to achieve the opex objectives.
[6.1.1]	6.4.3(b)(7) 6.5.8(a) 6.12.1(4)(i) 6.12.1(4)(ii)	6.4.3(b)(7) 6.5.8(a) 6.12.1(4)	Consequential revisions to replace references to ‘accept’ or ‘refuse to accept’ to ‘determine’.
[6.2]	6.5.6(e)	6.5.6(d)	Revision to: <ul style="list-style-type: none">– the chapeau to the opex factors; and– consequential renumbering amendment.
[6.3]	6.5.6(e)(1) 6.5.6(e)(2) 6.5.6(e)(3)	6.10.1(a) 6.10.1(b) 6.10.1(c) 6.11.1(a) 6.11.1(b) 6.11.1(d)	Revision to: <ul style="list-style-type: none">– relocate procedural opex factors; and– remove requirement that analysis undertaken by or for the AER be published prior to the AER’s decision.
[6.3.1]	6.10.1 6.11.1 6.5.6(e)(4) 6.5.6(e)(5) 6.5.6(e)(6) 6.5.6(e)(7) 6.5.6(e)(9) 6.5.6(e)(10)	6.10.1(d) 6.11.1(e) 6.5.6(d)(1) 6.5.6(d)(2) 6.5.6(d)(3) 6.5.6(d)(4) 6.5.6(d)(6) 6.5.6(d)(7)	Consequential renumbering revisions.
[6.4]	6.5.6(e)(8)	6.5.6(d)(5)	Revision to opex factor to provide for the AER to consider whether the forecast opex is consistent with the incentives provided in each of the service target performance incentive scheme, the efficiency benefit sharing scheme, the demand management incentive scheme and other incentive scheme or schemes made under clause 6.6.5.
[6.5]	6.5.6(c)(10)	6.5.6(c)(7)	Revision to existing opex factor to provide for the AER to consider any efficient and prudent non network alternatives may impact the forecast.
[6.6]	–	6.5.6(d)(8)	New opex factor to provide that the AER may have regard to a realistic expectation of the demand forecast and cost inputs (existing opex criterion at clause 6.5.6(c)(3)).

[6.7]	–	6.5.6(d)(10)	New opex factor to provide for the AER to have regard to any factor it considers relevant.
[6.8]	6.5.7(c)(1) 6.5.7(c)(2) 6.5.7(c)(3) 6.5.7(d)	6.5.7(c)	Revision to: <ul style="list-style-type: none"> – remove the requirement that the AER is to accept or reject the DNSP’s proposed forecast capex; – remove the capex criteria; and – provide that the AER is to determine the forecast capex that it considers would meet the efficient costs that a prudent DNSP would require to achieve the capex objectives.
[6.8.1]	6.12.1(3)(i) 6.12.1(3)(ii)	6.12.1(3)	Consequential revisions to replace references to ‘accept’ or ‘refuse to accept’ to ‘determine’.
[6.9]	6.5.7(e)	6.5.7(d)	Revision to: <ul style="list-style-type: none"> – the chapeau to the opex factors; and – consequential renumbering amendment.
[6.10]	6.5.7(e)(1) 6.5.7(e)(2) 6.5.7(e)(3)	6.10.1(a) 6.10.1(b) 6.10.1(d) 6.11.1(a) 6.11.1(b) 6.11.1(d)	Revision to: <ul style="list-style-type: none"> – move existing procedural capex factors to clauses 6.10.1 and 6.11.1; and – remove requirement that analysis undertaken by or for the AER be published prior to AER decision.
[6.10.1]	6.10.1 6.11.1 6.5.7(e)(4) 6.5.7(e)(5) 6.5.7(e)(6) 6.5.7(e)(7) 6.5.7(e)(9) 6.5.7(e)(10)	6.10.1(d) 6.11.1(e) 6.5.7(d)(1) 6.5.7(d)(2) 6.5.7(d)(3) 6.5.7(d)(4) 6.5.7(d)(6) 6.5.7(d)(7)	Consequential renumbering revisions.
[6.11]	6.5.7(e)(8)	6.5.7(d)(5)	Revision to existing capex factor to provide for the AER to consider whether the capex forecast is consistent with the incentives provided in each of the service target performance incentive scheme, the efficiency benefit sharing scheme, the demand management incentive scheme and other incentive scheme or schemes made under clause 6.6.5.
[6.12]	6.5.7(c)(10)	6.5.7(c)(7)	Revision to capex factor to provide for the AER to consider any efficient and prudent non network alternatives may displace parts of the forecast.
[6.13]	–	6.5.7(d)(8)	New capex factor to provide that the AER may have regard to a realistic expectation of the demand forecast and cost inputs (existing capex criterion at clause 6.5.7(c)(3)).
[6.14]	–	6.5.7(d)(10)	New capex factor to provide that the AER may have regard to any factor it considers relevant.

Table 1.2 Proposed rule change: regulatory asset base roll forward incentive mechanism

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.15]	S6.2.1(e)(1) S6.2.1(e)(2) S6.2.1(e)(5)	S6.2.1(e)(1)(i)(a) S6.2.1(e)(1)(i)(b) S6.2.1(e)(1)(ii) S6.2.1(e)(1) Note S6.2.1(e)(4) S6.2.1(e)(4) Note	Revision to: <ul style="list-style-type: none"> – provide that only actual capex (and where actual capex is not available, estimated capex) up to the amount of the forecast capex allowance determined in the distribution determination for the relevant regulatory control period adjusted to include (or remove) the amount of any capex used to determine any approved pass through amounts or negative pass through amounts; and – provide that 60% of any actual capex that exceeds the forecast capex allowance, is to be rolled into the regulatory asset base.
[6.15.1]	S6.2.1(e)(3) S6.2.1(e)(4) S6.2.1(e)(5) S6.2.1(e)(6) S6.2.1(e)(7) S6.2.1(e)(8)	S6.2.1(e)(2) S6.2.1(e)(3) S6.2.1(e)(4) S6.2.1(e)(5) S6.2.1(e)(6) S6.2.1(e)(7)	Consequential renumbering revisions.
[6.15.2]	S6.2.1(e)(4)	S6.2.1(e)(4)	Revision to clarify that all capex must be properly allocated to the provision of standard control services in accordance with the cost allocation methodology.

Table 1.3 Proposed rule change: reopening of distribution determination for capital expenditure

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.16]	–	6.6.4 6.6.4(a) 6.6.4(a)(1) 6.6.4(a)(2) 6.6.4(a)(3) 6.6.4(a)(4) 6.6.4(a)(4)(i) 6.6.4(a)(4)(ii) 6.6.4(a)(5) 6.6.4(a)(6) 6.6.4(a)(7) 6.6.4(b) 6.6.4(c) 6.6.4(c)(1) 6.6.4(c)(2) 6.6.4(d) 6.6.4(e) 6.6.4(f)	New clause to provide a distribution determination to be reopened for capex for an event beyond the reasonable control of a DNSP.

6.6.4(f)(1)
6.6.4(f)(2)
6.6.4(f)(2)(i)
6.6.4(f)(2)(ii)
6.6.4(f)(2)(iii)
6.6.4(g)

Table 1.4 Proposed rule change: amending, revoking or substituting a distribution determination

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.17]	6.13(a)(1) 6.13(a)(2) 6.13(a)(3) 6.13(a)(4)	6.13(a)(1) 6.13(a)(2)	Revisions to provide that the AER may revoke and substitute or amend a distribution determination subject to clause 6.6.4.
[6.17.1]	6.13(b) 6.13(c) 6.13(d)	6.13(b) 6.13(c) 6.13(d)	Consequential referencing revisions.

Table 1.5 Proposed rule change: contingent projects

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.18]	–	6.6A 6.6A.1(a) 6.6A.1(b)(1) 6.6A.1(b)(2) 6.6A.1(c) 6.6A.1(d) 6.6A.1(e)(1) 6.6A.1(e)(2) 6.6A.1(e)(3) 6.6A.1(f)(1) 6.6A.1(f)(2) 6.6A.1(f)(3) 6.6A.1(f)(4) 6.6A.1(f)(5)(i) 6.6A.1(f)(5)(ii) 6.6A.2(a) 6.6A.2(b)(1) 6.6A.2(b)(2) 6.6A.2(b)(3)(i) 6.6A.2(b)(3)(ii) 6.6A.2(b)(3)(iii) 6.6A.2(b)(3)(iv) 6.6A.2(b)(3)(v) 6.6A.2(b)(3)(vi) 6.6A.2(b)(3)(vii) 6.6A.2(b)(4)(i) 6.6A.2(b)(4)(ii) 6.6A.2(b)(4)(iii) 6.6A.2(b)(4)(iv)	<p>New rule to provide for contingent projects in a distribution determination including:</p> <ul style="list-style-type: none"> – new clause 6.6A.1 to provide for the AER to identify any contingent projects in the distribution determination; – new clause 6.6A.2 to provide for a DNSP to apply during the regulatory control period for the AER to reopen the distribution determination in the event a trigger event for a contingent project occurs; and – new clause 6.6A.3 to provide for the AER to develop and publish the Distribution Contingent Project Guidelines to specify the appropriate threshold for the purposes of new clause 6.6A.1(b)(1).

		6.6A.2(b)(4)(v) 6.6A.2(c) 6.6A.2(d) 6.6A.2(e) 6.6A.2(e)(1)(i) 6.6A.2(e)(1)(ii) 6.6A.2(e)(1)(iii) 6.6A.2(e)(1)(iv) 6.6A.2(e)(1)(v) 6.6A.2(e)(2)(i) 6.6A.2(e)(2)(ii) 6.6A.2(e)(2)(iii) 6.6A.2(e)(3) 6.6A.2(f)(1) 6.6A.2(f)(2) 6.6A.2(f)(3)(i) 6.6A.2(f)(3)(ii) 6.6A.2(g) 6.6A.3(a) 6.6A.3(b) 6.6A.3(c) 6.6A.3(d)	
[6.18.1]	–	6.5.6(d)(9) 6.5.7(d)(9)	New capex factor and opex factor which provides that the AER may have regard to whether the forecast of required capex includes any amounts that should more appropriate be included as a contingent project.
[6.18.2]	–	6.5.7(e) 6.5.7(f) 6.5.7(g) 6.5.7(h) 6.5.7(i)	New clauses to allow for any unspent capex for a contingent project during a regulatory control period to be carried over into the next regulatory control period.
[6.18.3]	–	6.12.1(3A)	New constituent decision requiring the AER to make a decision identifying the contingent projects and associated trigger events for the regulatory control period.
[6.18.4]	–	S6.1.3(14)	New clause to provide that a building block proposal is to include information regarding contingent projects (if applicable).

Table 1.6 Proposed rule change: excluding related party margins and capitalised overheads from the regulatory asset base

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.19]	S6.2.1(e)(1)	S6.2.1(e)(1)	New clause to provide that related party margins or capitalised overheads are only included to the extent that they have been incurred consistently with and as provided for in the total of the forecast capex decided in the revenue determination for that previous period.

Table 1.7 Proposed rule change: other incentive schemes

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.20]	–	6.6.5(a) 6.6.5(b)(1) 6.6.5(b)(2) 6.6.5(b)(3) 6.6.5(b)(4) 6.6.5(b)(5) 6.6.5(c) 6.6.5(d) 6.6.5(e) 6.6.5(f) 6.6.5(g)(1) 6.6.5(g)(2)	New clause to provide for the AER to develop and publish an incentive scheme or schemes other than the service target performance incentive scheme and the efficiency benefit sharing scheme where the AER considers that there are benefits to end users or customers arising from the incentive scheme or schemes.
[6.20.1]	6.3.2(a)(3)	6.3.2(a)(3)	New clause to require a building block proposal to state how any applicable other incentive scheme or schemes are to apply.
[6.20.2]	6.4.3(a)(5) 6.4.3(b)(5)	6.4.3(a)(5) 6.4.3(b)(5)	Revision to require adjustment in the building blocks of any revenue increments or decrements arising from the application of other incentive scheme or schemes developed and published under clause 6.6.5.
[6.20.3]	6.5.6(e)(8) 6.5.7(e)(8)	6.5.6(d)(5) 6.5.7(d)(5)	Revision to include reference in the operating and capex factors to other incentives scheme.
[6.20.4]	6.12.1(9)	6.12.1(9)	Revision to require the AER to make a constituent decision on how any applicable other incentive scheme or schemes are to apply.
[6.20.5]	–	S6.1.3(5A)	New clause to require a DNSP to provide in the building block proposal the values that it proposes are to be attributed to the parameters for the purposes of the application to the provider of any applicable incentive scheme or schemes.

Table 1.8 Proposed rule change: treatment of shared assets

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.21]		6.4.3(a)(8) 6.8.1(b)(2) 6.12.1(13A)	Revisions to: <ul style="list-style-type: none"> – introduce new clause to allow for any revenue decrement for that year arising from; – introduce new clause to provide for the AER to set out in the framework and approach paper its likely approach to; and – to require the AER to make a constituent decision in relation to,

the use or forecast use of assets forming part of the regulatory asset base for the provision of services other than the provision of standard control services.

[6.21.1] 6.4.3(a)(7) 6.4.3(a)(7) Consequential renumbering and referencing revisions.

Table 1.9 Proposed rule change: cost of capital

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.22]	6.5.2(b)	6.5.2(b)(1) 6.5.2(b)(2)	Revision to: – clarify the chapeau of clause 6.5.2(b); and – require that the WACC is to be calculated in accordance with the statement on the cost of capital.
[6.22.1]	6.5.4(c) 6.5.4(f) 6.5.4(g) 6.4.3(b)(2) Note 6.4.3(b)(4) Note 6.12.1(7)	6.5.4(c) 6.5.4(f) 6.5.4(g) 6.12.1(7)	Revisions to replace reference to the ‘statement of regulatory intent’ with the ‘statement on the cost of capital’.
[6.22.2]	6.5.4(d)(1) 6.5.4(d)(2) 6.5.4(d)(3) 6.5.4(d)(5)	6.5.4(d)(1) 6.5.4(d)(2) 6.5.4(d)(3) 6.5.4(d)(5)	Consequential referencing revisions.
[6.22.3]	6.12.1(5)	6.12.1(5)	Consequential revision to the relevant constituent decision.
[6.22.4]	S6.1.3(9)	S6.1.3(9)	Revision to require the DNSP’s proposed rate of return to be calculated in accordance with the statement on the cost of capital to be included as part of a building block proposal.
[6.23]	6.5.2(c)(1) 6.5.2(c)(2) 6.5.2(c)(2)(i) 6.5.2(c)(2)(ii) 6.5.2(c)(2)(iii) 6.5.2(c)(2)(iv) 6.5.2(d) 6.5.2(e)	Deleted	Revision to remove the prescription on how to calculate the nominal risk free rate and the debt risk premium.
[6.23.1]	6.5.4(c) 6.5.4(d)(4) 6.5.4(d)(6) 6.5.4(e)(1) 6.5.4(f)	6.5.4(c) 6.5.4(d)(4) 6.5.4(f)	Consequential revisions to remove the reference to the credit rating level, maturity period and bond rates.
[6.23.2]	6.5.4(d)(7)	6.5.4(d)(6)	Consequential renumbering revision.
[6.23.3]	–	6.5.4(d)(4)	New clause to provide for the debt risk premium to be reviewed.

[6.23.4]	6.5.4(e)(3)	6.5.4(e)(4)	Consequential revision to replace reference to ‘parameters’ with ‘matters’ as it is no longer the case it is only parameters to be reviewed.
[6.23.5]	S6.1.3(8)	S6.1.3(8)	Revision to: <ul style="list-style-type: none"> – remove requirement that a building block proposal is to specify the commencement and length of period for the purposes of calculating the nominal risk free rate; and – require a building block proposal to include any information required by the statement on the cost of capital.
[6.24]	6.5.4(e)(4)(i) 6.5.4(e)(4)(ii) 6.5.4(e)(5) 6.5.4(g) 6.5.4(h)(1) 6.5.4(h)(2) 6.5.4(i)	6.5.4(e)(4) 6.5.4(e)(5) 6.5.4(g)	Revision to: <ul style="list-style-type: none"> – remove the reference to the need for persuasive evidence before adopting a different value or method of calculating a parameter which cannot be determined with certainty; and – preserve the requirements that in undertaking a review, the AER must have regard to the previously adopted value or method and the national electricity objective.
[6.25]	6.5.4(a) 6.5.4(b)	6.5.4(a) 6.5.4(b)	Revision to: <ul style="list-style-type: none"> – provide that the next review is to be concluded by 1 March 2014 and subsequent reviews within five year intervals thereafter; and – provide that a review must be undertaken in accordance with the distribution consultation procedures, subject to the reference in rule 6.16(e) to 80 business days being read as a reference to 100 business days and the AER not being able to extend the time within which it is to make the final decision under rule 6.16(g).

Table 1.10 Proposed rule change: cost pass throughs

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.26]	6.2.8(4) 6.2.8(5)	6.2.8(4)	Revision to remove the ability for the AER to publish guidelines setting out its likely approach to determining materiality in the context of possible pass through events, consequential to defining material for the purposes of clause 6.6.1: see [10.8].

[6.27]	S6.2.1(e)(4)	S6.2.1(e)(4)	Revision to include the effect of the amount of any capex included in determining any approved or required pass through amounts on the total forecast capex and depreciation for the purposes of establishing the opening value of the regulatory asset base.
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Table 1.11 Proposed rule change: confidential information

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.28]	6.8.2(c)(6)	6.8.2(c)(6) 6.10.3(c1) 6.14.2(e)	Revision to: <ul style="list-style-type: none"> – require a DNSP to identify the confidential parts of a regulatory proposal or a revised regulatory proposal; – remove the reference to the parts of the proposal that the DNSP wants suppressed, which is redundant; and – introduce new clauses to provide for the AER to give such weight it considers appropriate to confidential information in a regulatory proposal or a revised regulatory proposal.

Table 1.12 Proposed rule change: submissions and late proposals

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.29]	6.9.3(a)(2) 6.9.3(b) 6.9.3(c)	6.9.3(a)(2)(i) 6.9.3(a)(2)(i) 6.9.3(a)(3) 6.9.3(b) 6.9.3(c) 6.9.3(d)(1) 6.9.3(d)(2) 6.9.3(d)(3) 6.9.3(d)(4)	Revisions to restrict a DNSP from making a submission on its own regulatory proposal and where there are concurrent proposals being assessed, on another DNSP's regulatory proposal unless there are material differences between the two. See Australian Government Solicitor, <i>Advice on possible amendments to the National Electricity Rules</i> , 27 September 2011 (AGS advice), [26]–[28]; proposed change [1].
[6.30]	6.10.1 6.10.2(a)(5) 6.10.2(c) 6.10.3(a) 6.10.3(e) 6.11.1	6.10.1 6.10.1(a) 6.10.2(a)(5) 6.10.2(a)(6) 6.10.2(c) 6.10.2(d)(1) 6.10.2(d)(2) 6.10.2(d)(3) 6.10.2(d)(4) 6.10.3(a) 6.10.3(e) 6.10.3(f) 6.10.3(g)	Revisions to restrict a DNSP from making a submission on its own revised regulatory proposal and where there are concurrent proposals being assessed, on another a draft distribution determination applying to another DNSP unless there are material differences between the two. See AGS advice, [29]–[32]; proposed changes [2] and [3].

		6.10.3(h) 6.10.3(i)(1) 6.10.3(i)(2) 6.10.3(i)(3) 6.10.3(i)(4) 6.11.1 6.11.1(a) 6.11.1(c)	
[6.31]	6.14(a)	6.14.1(a) 6.14.1(b)(1) 6.14.1(b)(2) 6.14.1(c)	<p>New clause to specify that the AER:</p> <ul style="list-style-type: none"> – must not consider any submission that does not comply with clause 6.9.3 and 6.10.2; – any resubmitted or revised regulatory proposals which are late or do not address the matters permitted in clause 6.10.3 – may accept corrections or errors that do not affect the substance of the regulatory proposal. <p>See AGS advice, [33]–[39]; proposed change [4].</p>
[6.31.1]	6.14(b) 6.14(c) 6.14(d) 6.14(e) 6.14(f)	6.14.2(a) 6.14.2(b) 6.14.2(c) 6.14.2(d) 6.14.2(f)	<p>Consequential renumbering and referencing revisions.</p> <p>See AGS advice, [33]–[39]; proposed change [4].</p>

Table 1.13 Proposed rule change: framework and approach paper

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.32]	6.12.3(b)	6.12.3(b)	Revision to provide for the AER to change the classification of services from that specified in the framework and approach paper if unforeseen circumstances arise from the regulatory proposal and submissions received.
[6.33]	6.12.3(c) 6.8.1(c)	6.12.3(c) 6.8.1(b)(3)	<p>Revision to:</p> <ul style="list-style-type: none"> – provide for the AER to change the control mechanism from that specified in the framework and approach paper if unforeseen circumstances arise from the regulatory proposal and submissions received; and – replaced reference in existing clause 6.8.1(c) to ‘must set out’ with new clause 6.8.1(b)(4) which requires the AER to set out its likely approach in relation to the control mechanism.
[6.33.1]	6.8.1(b)(5)	6.8.1(b)(5)	Consequential renumbering revision.

[6.34]	6.8.1(b)(2) 6.8.1(b)(3) 6.8.1(b)(4)	Deleted	Revision to remove the requirement for the AER to state its likely approach to application of incentive schemes.
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Table 1.14 Proposed rule change: extension of time frames

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.35]	–	6.6.1(l)(1) 6.6.1(l)(2)	New clauses to: <ul style="list-style-type: none"> – extend the timeframes by when a TNSP must make an application to the AER regarding a positive change event and a negative change event if the AER is satisfied that the difficulty of assessing or quantifying its effect justifies the extension; and – allow the AER to extend the timeframe by up to a further 60 business days in which it makes its decision regarding the positive change event and the approved pass through amount if the decision involves questions of unusual complexity or if it requires further information from the DNSP.
[6.35.1]	6.6.1(e)	6.6.1(e)	Revision to change 60 business days to 40 business days.
[6.36]	–	6.6.4(h)(1) 6.6.4(h)(2)	New clause to provide for the AER to extend the timeframe by up to a further 60 business days in which it makes its decision regarding the TNSP’s reopening application if the decision involves questions of unusual complexity or if it requires further information from the DNSP.
[6.37]	–	6.6A.2(h)(1) 6.6A.2(h)(2)	New clause to provide for the AER to extend the timeframe by up to a further 60 business days in which it makes its decision regarding the DNSP’s trigger event application if the decision involves questions of unusual complexity or if it requires further information from the DNSP.

Table 1.15 Proposed rule change: decision making process

No.	Current rule(s)	Proposed rule(s)	Remarks
[6.38]	6.12.1(2)(i) 6.12.1(2)(ii) 6.12.3(d) 6.12.3(f)	6.12.1(2) 6.12.1(2A)	Revision to: <ul style="list-style-type: none"> – remove clause 6.12.3(d) and 6.12.3(f) consistent with the AER now determining the forecast capex and forecast opex and consequential renumbering amendments; – revise clause 6.12.1(2) to provide that the AER is to determine the annual revenue requirement; and

- preserve in new clause 6.12.1(2A), that the AER is to accept or refuse to accept the proposed regulatory control period.

[6.38.1]	6.12.3(e)	6.12.3(d)
	6.12.3(g)	6.12.3(e)
	6.12.3(h)	6.12.3(f)

Consequential renumbering revisions.

1.2 Draft rules

6 Economic Regulation of Distribution Services

...

Part B Classification of Distribution Services and Distribution Determinations

6.2 Classification

...

6.2.8 Guidelines

- (a) The *AER* may *publish* guidelines as to:
- (1) the classification of *distribution services*; and
 - (2) the control mechanisms for *direct control services*; and
 - (3) the calculation of stand-alone, avoidable and long-run marginal costs; and
 - ~~(4) the *AER's* likely approach to determining materiality in the context of possible pass-through events; and~~ [6.26]
 - ~~(5)~~(4) other matters relevant to this Chapter. [6.26]
- (b) The guidelines may relate to a specified *Distribution Network Service Provider* or *Distribution Network Service Providers* of a specified class.
- (c) The guidelines are not mandatory (and hence do not bind the *AER* or anyone else) but, if the *AER* makes a distribution determination that is not in accordance with a relevant guideline, the *AER* must state, in its reasons for the distribution determination, the reasons for departing from the guideline.
- (d) If the guidelines indicate that there may be a change of regulatory approach in future distribution determinations, the guidelines should also (if practicable) indicate how transitional issues are to be dealt with.
- (e) In making or amending a guideline, the *AER* must follow the *distribution consultation procedures* in Part G.

Part C Building Block Determinations for standard control services

6.3 Building block determinations

...

6.3.2 Contents of building block determination

- (a) A *building block determination* for a *Distribution Network Service Provider* is to specify, for a *regulatory control period*, the following matters:
- (1) the *Distribution Network Service Provider's annual revenue requirement* for each *regulatory year* of the *regulatory control period*;
 - (2) appropriate methods for the indexation of the regulatory asset base;
 - (3) how any applicable *efficiency benefit sharing scheme, service target performance incentive scheme, ~~or~~ demand management incentive scheme* or other incentive scheme or schemes developed and published under clause 6.6.5 are to apply to the *Distribution Network Service Provider*;
 - (4) the commencement and length of the *regulatory control period*;
 - (5) any other amounts, values or inputs on which the *building block determination* is based (differentiating between those contained in, or inferred from, the service provider's *building block proposal* and those based on the AER's own estimates or assumptions).
- (b) A *regulatory control period* must be not less than 5 *regulatory years*.

[6.20.1]

...

6.4.3 Building block approach

(a) Building blocks generally

The *annual revenue requirement* for a *Distribution Network Service Provider* for each *regulatory year* of a *regulatory control period* must be determined using a building block approach, under which the building blocks are:

- (1) indexation of the regulatory asset base – see paragraph (b)(1); and
- (2) a return on capital for that year – see paragraph (b)(2); and
- (3) the depreciation for that year – see paragraph (b)(3); and
- (4) the estimated cost of corporate income tax of the provider for that year – see paragraph (b)(4); and
- (5) the revenue increments or decrements (if any) for that year arising from the application of the *efficiency benefit sharing scheme, the service target performance incentive scheme, ~~and~~ the demand management incentive scheme* and other incentive scheme or schemes developed and published under clause 6.6.5 – see paragraph (b)(5); and

[6.20.2]

(6) the other revenue increments or decrements (if any) for that year arising from the application of a control mechanism in the previous *regulatory control period* – see paragraph (b)(6); and

(7) the forecast operating expenditure for that year – see paragraph (b)(7); ~~and~~

[6.21.1]

(8) if applicable, any revenue decrement for that year arising from the use or forecast use of assets forming part of the regulatory asset base for the provision of services other than the provision of *standard control services*.

[6.21]

(b) **Details of the building blocks**

For the purposes of paragraph (a):

(1) for indexation of the regulatory asset base:

(i) the regulatory asset base is calculated in accordance with clause 6.5.1 and schedule 6.2; and

(ii) the building block comprises a negative adjustment equal to the amount referred to in clause S6.2.3(c)(4) for that year; and

(2) the return on capital is calculated in accordance with clause 6.5.2; and

Note:

[6.22.1]

~~A statement of regulatory intent may be relevant to the calculation (See clause 6.5.4).~~

[6.22.1]

(3) the depreciation is calculated in accordance with clause 6.5.5; and

(4) the estimated cost of corporate income tax is determined in accordance with clause 6.5.3; and

Note:

[6.22.1]

~~A statement of regulatory intent may be relevant to the calculation (See clause 6.5.4).~~

[6.22.1]

(5) the revenue increments or decrements referred to in paragraph (a)(5) are those that arise as a result of the operation of an applicable *efficiency benefit sharing scheme, service target performance incentive scheme, or demand management incentive scheme* or other incentive scheme or schemes as referred to in clauses 6.5.8, 6.6.2, ~~and~~ 6.6.3 and 6.6.5; and

[6.20.2]

(6) the other revenue increments or decrements referred to in paragraph (a)(6) are those that are to be carried forward to the current *regulatory control period* as a result of the application of a control mechanism in the previous *regulatory control period* and are apportioned to the

relevant year under the distribution determination for the current *regulatory control period*; and

- (7) the forecast operating expenditure for the year is the forecast operating expenditure as ~~accepted or substituted~~ determined by the AER in accordance with clause 6.5.6.

[6.1.1]

6.5 Matters relevant to the making of building block determinations

...

6.5.2 Return on capital

Calculation of return on capital

- (a) The return on capital for each *regulatory year* must be calculated by applying a rate of return for the relevant *Distribution Network Service Provider* for that *regulatory control period* (calculated in accordance with this clause 6.5.2) to the value of the regulatory asset base for the relevant *distribution system* as at the beginning of that *regulatory year* (as established in accordance with clause 6.5.1 and schedule 6.2).

Weighted average cost of capital

- (b) The rate of return for a *Distribution Network Service Provider* for a *regulatory control period* is the cost of capital as measured by the return required by investors in a commercial enterprise with a similar nature and degree of non-diversifiable risk as that faced by the *distribution* business of the provider and must be calculated ~~as a nominal post-tax weighted average cost of capital (WACC) in accordance with the following formula:~~

[6.22]

- (1) as a nominal vanilla weighted average cost of capital (WACC) in accordance with the following formula:

$$WACC = k_e \frac{E}{V} + k_d \frac{D}{V}$$

where:

k_e is the return on equity (determined using the Capital Asset Pricing Model) and is calculated as:

$$r_f + \beta_e \times \text{MRP}$$

where:

r_f is the nominal risk free rate for the *regulatory control period* ~~determined in accordance with paragraph (c)~~;

β_e is the equity beta; and

MRP is the market risk premium;

k_d is the return on debt and is calculated as:

$$r_f + \text{DRP}$$

where:

DRP is the debt risk premium for the *regulatory control period* ~~determined in accordance with paragraph (e)~~;

E/V is the value of equity as a proportion of the value of equity and debt, which is $1 - D/V$; and

D/V is the value of debt as a proportion of the value of equity and debt: and [6.22]

(2) in accordance with the *statement on the cost of capital*. [6.22]

Meaning of nominal risk free rate

~~(c) The nominal risk free rate for a *regulatory control period* is (unless some different provision is made by a relevant *statement of regulatory intent*) the rate determined for that *regulatory control period* by the AER on a moving average basis from the annualised yield on Commonwealth Government bonds with a maturity of 10 years using:~~ [6.23]

~~(1) the indicative mid rates published by the Reserve Bank of Australia; and~~ [6.23]

~~(2) a period of time which is either:~~ [6.23]

~~(i) a period (**the agreed period**) proposed by the relevant *Distribution Network Service Provider*, and agreed by the AER (such agreement is not to be unreasonably withheld); or~~ [6.23]

~~(ii) a period specified by the AER, and notified to the provider within a reasonable time prior to the commencement of that period, if the period proposed by the provider is not agreed by the AER under subparagraph (i);~~ [6.23]

~~and, for the purposes of subparagraph (i):~~ [6.23]

~~(iii) the start date and end date for the agreed period may be kept confidential, but only until the expiration of the agreed period; and~~ [6.23]

~~(iv) the AER must notify the *Distribution Network Service Provider* whether or not it agrees with the proposed period within 30 *business days* of the date of submission of the *building block proposal*.~~ [6.23]

~~(d) If there are no Commonwealth Government bonds with a maturity of 10 years on any day in the period referred to in paragraph (c)(2), the AER must (unless some different provision is made by a relevant *statement of*~~

~~regulatory intent) determine the nominal risk free rate for the regulatory control period by interpolating on a straight line basis from the two Commonwealth Government bonds closest to the 10 year term and which also straddle the 10 year expiry date.~~ [6.23]

Meaning of debt risk premium [6.23]

~~(e) The debt risk premium for a regulatory control period is the premium determined for that regulatory control period by the AER as the margin between the annualised nominal risk free rate and the observed annualised Australian benchmark corporate bond rate for corporate bonds which have a maturity equal to that used to derive the nominal risk free rate and a credit rating from a recognised credit rating agency.~~ [6.23]

...

6.5.4 Review of rate of return

(a) The AER must, ~~in accordance with the distribution consultation procedures and this clause,~~ carry out reviews of the matters referred to in paragraph (d); in accordance with this clause and the distribution consultation procedures, subject to: [6.25]

(1) the reference in rule 6.16(e) to 80 business days being read as a reference to 100 business days; and [6.25]

(2) the AER may not extend the time within which it is required to publish its final decision under rule 6.16(g). [6.25]

(b) ~~The first~~A review is to be concluded by ~~1 May 2009~~1 March 2014 and further reviews are to follow at intervals not exceeding, in any case, five years with the first interval starting from ~~31 March 2009~~1 March 2014. [6.25]

(c) The AER must, in consequence of a review, issue a statement (a ~~statement of regulatory intent~~statement on the cost of capital) adopting values; and methods ~~and credit rating levels~~ for *Distribution Network Service Providers* or for specified classes of *Distribution Network Service Providers*. [6.22.1] [6.23.1]

(d) The following matters (and the method of their calculation) may form the subject of a review:

(1) the nominal risk free rate referred to in clause ~~6.5.2(e)~~6.5.2(b)(1); [6.22.2]

(2) the equity beta referred to in clause ~~6.5.2(b)~~6.5.2(b)(1); [6.22.2]

(3) the market risk premium referred to in clause ~~6.5.2(b)~~6.5.2(b)(1); [6.22.2]

(4) ~~the maturity period and bond rates referred to in clause 6.5.2(d)~~the debt risk premium referred to in clause 6.5.2(b)(1); [6.23.1] [6.23.3]

(5) the ratio of the value of debt to the value of equity and debt referred to in clause ~~6.5.2(b)~~6.5.2(b)(1); and [6.22.2]

- ~~(6) credit rating levels referred to in clause 6.5.2(e);~~ [6.23.1]
- ~~(7)~~(6) the assumed utilisation of imputation credits referred to in clause 6.5.3. [6.23.2]
- (e) In undertaking a review, the *AER* must have regard to:
- (1) the need for the rate of return calculated for the purposes of clause 6.5.2(b) to be a forward looking rate of return that is commensurate with prevailing conditions in the market for funds and the risk involved in providing *standard control services*; and
 - (2) the need for the return on debt to reflect the current cost of borrowings for comparable debt; and
 - (3) the need for ~~the credit rating levels or~~ the values attributable to, or the methods of calculating, the ~~parameters~~matters referred to in paragraph (d) that vary according to the efficiency of the *Distribution Network Service Provider* to be based on a benchmark efficient *Distribution Network Service Provider*; and [6.23.1] [6.23.4]
 - (4) ~~where the credit rating levels or the values attributable to, or the method of calculating, parameters referred to in paragraph (d) cannot be determined with certainty:~~ [6.24]
 - ~~(i) the need to achieve an outcome that is consistent with the national electricity objective; and~~ [6.24]
 - ~~(ii) the need for persuasive evidence before adopting a credit rating level or a value for, or a method of calculating, that parameter that differs from the credit rating level, value or the method of calculation that has previously been adopted for it.~~ [6.24]
 - (5) the previously adopted values for, or methods of calculating, the matters referred to in paragraph (d). [6.24]
- (f) A ~~statement of regulatory intent~~statement on the cost of capital adopting a revised value, ~~or method, or credit rating level~~ in relation to the matters referred to in paragraph (d) applies only for the purposes of a *building block proposal* submitted to the *AER* after publication of the ~~statement of regulatory intent~~statement on the cost of capital. [6.22.1] [6.23.1]
- (g) A distribution determination to which a ~~statement of regulatory intent~~statement on the cost of capital is applicable must be consistent with the statement ~~unless there is persuasive evidence justifying a departure, in the particular case, from a value, method or credit rating level set in the statement.~~ [6.22.1] [6.24]
- ~~(h) In deciding whether a departure from a value, method or credit rating level set in a statement of regulatory intent is justified in a distribution determination, the AER must consider:~~ [6.24]

~~(1) the criteria on which the value, method or credit rating level was set in the statement of regulatory intent (the underlying criteria); and [6.24]~~

~~(2) whether, in the light of the underlying criteria, a material change in circumstances since the date of the statement, or any other relevant factor, now makes a value, method or credit rating level set in the statement inappropriate. [6.24]~~

~~(i) If the AER, in making a distribution determination, in fact departs from a value, method or credit rating level set in a statement of regulatory intent, it must: [6.24]~~

~~(1) state the substitute value, method or credit rating level in the determination; and [6.24]~~

~~(2) demonstrate, in its reasons for the departure, that the departure is justified on the basis of the underlying criteria. [6.24]~~

...

6.5.6 Forecast operating expenditure

- (a) A *building block proposal* must include the total forecast operating expenditure for the relevant *regulatory control period* which the *Distribution Network Service Provider* considers is required in order to achieve each of the following (the *operating expenditure objectives*):
- (1) meet or manage the expected demand for *standard control services* over that period;
 - (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *standard control services*;
 - (3) maintain the quality, reliability and security of supply of *standard control services*;
 - (4) maintain the reliability, safety and security of the *distribution system* through the supply of *standard control services*.
- (b) The forecast of required operating expenditure of a *Distribution Network Service Provider* that is included in a *building block proposal* must:
- (1) comply with the requirements of any relevant *regulatory information instrument*; and
 - (2) be for expenditure that is properly allocated to *standard control services* in accordance with the principles and policies set out in the *Cost Allocation Method* for the *Distribution Network Service Provider*; and
 - (3) include both:

- (i) the total of the forecast operating expenditure for the relevant *regulatory control period*; and
 - (ii) the forecast of the operating expenditure for each *regulatory year* of the relevant *regulatory control period*.
- (c) ~~The AER must accept the forecast of required operating expenditure of a Distribution Network Service Provider that is included in a building block proposal if the AER is satisfied that the total of the forecast operating expenditure for the regulatory control period reasonably reflects:~~ [6.1]
- ~~(1) the efficient costs of achieving the operating expenditure objectives; and~~ [6.1]
 - ~~(2) the costs that a prudent operator in the circumstances of the relevant Distribution Network Service Provider would require to achieve the operating expenditure objectives; and~~ [6.1]
 - ~~(3) a realistic expectation of the demand forecast and cost inputs required to achieve the operating expenditure objectives.~~ [6.1]
- ~~(the operating expenditure criteria).~~ [6.1]
- The AER must determine the total of the forecast of required operating expenditure of a Distribution Network Service Provider for the regulatory control period, and the forecast of the required operating expenditure for each regulatory year of the regulatory control period, that the AER considers would meet the efficient costs that a prudent Distribution Network Service Provider would require to achieve the operating expenditure objectives. [6.1]
- ~~(d) If the AER is not satisfied as referred to in paragraph (c), it must not accept the forecast of required operating expenditure of a Distribution Network Service Provider that is included in a building block proposal.~~ [6.1]
- ~~(e)~~(d) In determining the forecasts of required operating expenditure as referred to in paragraph (c), the AER ~~must~~may, as it considers appropriate, have regard to the following (the *operating expenditure factors*): [6.2]
- ~~(1) the information included in or accompanying the building block proposal;~~ [6.3]
 - ~~(2) submissions received in the course of consulting on the building block proposal;~~ [6.3]
 - ~~(3) analysis undertaken by or for the AER and published before the distribution determination is made in its final form;~~ [6.3]
 - ~~(4)~~(1) benchmark operating expenditure that would be incurred by an efficient *Distribution Network Service Provider* over the *regulatory control period*; [6.3.1]

- (5)(2) the actual and expected operating expenditure of the *Distribution Network Service Provider* during any preceding *regulatory control periods*; [6.3.1]
- (6)(3) the relative prices of operating and capital inputs; [6.3.1]
- (7)(4) the substitution possibilities between operating and capital expenditure; [6.3.1]
- (8)(5) whether ~~the total labour costs included in the capital and~~ operating expenditure forecasts for the *regulatory control period* ~~are~~ is consistent with the incentives provided by the applicable *service target performance incentive scheme* ~~in respect of the regulatory control period, efficiency benefit sharing scheme, demand management incentive scheme or other incentive scheme or schemes developed and published under clause 6.6.5;~~ [6.3.1] [6.4] [6.20.3]
- (9)(6) the extent the forecast of required operating expenditure of the *Distribution Network Service Provider* is referable to arrangements with a person other than the provider that, in the opinion of the *AER*, do not reflect arm's length terms; [6.3.1]
- (10)(7) the extent ~~the Distribution Network Service Provider has considered, and made provision for, to which any~~ efficient and prudent non-network alternatives may impact the forecast of required operating expenditure; [6.3.1] [6.5]
- (8) a realistic expectation of the demand forecast and cost inputs; [6.6]
- (9) whether the forecast of required operating expenditure includes amounts relating to a project that should more appropriately be identified as a contingent project under clause 6.6A.1(c); [6.18.1]
- (10) any other factors the AER considers relevant. [6.7]

6.5.7 Forecast capital expenditure

- (a) A *building block proposal* must include the total forecast capital expenditure for the relevant *regulatory control period* which the *Distribution Network Service Provider* considers is required in order to achieve each of the following (the *capital expenditure objectives*):
- (1) meet or manage the expected demand for *standard control services* over that period;
 - (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *standard control services*;
 - (3) maintain the quality, reliability and security of supply of *standard control services*;

- (4) maintain the reliability, safety and security of the *distribution system* through the supply of *standard control services*.
- (b) The forecast of required capital expenditure of a *Distribution Network Service Provider* that is included in a *building block proposal* must:
- (1) comply with the requirements of any relevant *regulatory information instrument*; and
 - (2) be for expenditure that is properly allocated to *standard control services* in accordance with the principles and policies set out in the *Cost Allocation Method* for the *Distribution Network Service Provider*; and
 - (3) include both:
 - (i) the total of the forecast capital expenditure for the relevant *regulatory control period*; and
 - (ii) the forecast of the capital expenditure for each *regulatory year* of the relevant *regulatory control period*; and
 - (4) identify any forecast capital expenditure that is for an option that has satisfied the *regulatory test*.
- (c) ~~The AER must accept the forecast of required capital expenditure of a *Distribution Network Service Provider* that is included in a *building block proposal* if the AER is satisfied that the total of the forecast capital expenditure for the *regulatory control period* reasonably reflects:~~ [6.8]
- ~~(1) the efficient costs of achieving the *capital expenditure objectives*; and~~ [6.8]
 - ~~(2) the costs that a prudent operator in the circumstances of the relevant *Distribution Network Service Provider* would require to achieve the *capital expenditure objectives*; and~~ [6.8]
 - ~~(3) a realistic expectation of the demand forecast and cost inputs required to achieve the *capital expenditure objectives*.~~ [6.8]
- ~~(the *capital expenditure criteria*)~~ [6.8]
- The AER must determine the total of the forecast of required capital expenditure of a *Distribution Network Service Provider* for the *regulatory control period*, and for and the forecast of the required capital expenditure each *regulatory year* of the *regulatory control period*, that the AER considers would meet the efficient costs that a prudent *Distribution Network Service Provider* would require to achieve the *capital expenditure objectives*. [6.8]
- ~~(d) If the AER is not satisfied as referred to in paragraph (c), it must not accept the forecast of required capital expenditure of a *Distribution Network Service Provider*.~~ [6.8]

- (e)(d) ~~In deciding whether or not the AER is satisfied~~ In determining the forecasts of required capital expenditure as referred to in paragraph (c), the AER ~~must~~ may, as it considers appropriate, have regard to the following (the *capital expenditure factors*): [6.9]
- (1) ~~the information included in or accompanying the building block proposal;~~ [6.10]
- (2) ~~submissions received in the course of consulting on the building block proposal;~~ [6.10]
- (3) ~~analysis undertaken by or for the AER and published before the distribution determination is made in its final form;~~ [6.10]
- (4)(1) benchmark capital expenditure that would be incurred by an efficient *Distribution Network Service Provider* over the *regulatory control period*; [6.10.1]
- (5)(2) the actual and expected capital expenditure of the *Distribution Network Service Provider* during any preceding *regulatory control periods*; [6.10.1]
- (6)(3) the relative prices of operating and capital inputs; [6.10.1]
- (7)(4) the substitution possibilities between operating and capital expenditure; [6.10.1]
- (8)(5) whether ~~the total labour costs included in the capital and operating expenditure forecasts for the regulatory control period~~ are ~~is~~ consistent with the incentives provided by the applicable *service target performance incentive scheme* ~~in respect of the regulatory control period, efficiency benefit sharing scheme, demand management incentive scheme or other incentive scheme or schemes developed and published under clause 6.6.5;~~ [6.10.1] [6.11] [6.20.3]
- (9)(6) the extent the forecast of required capital expenditure of the *Distribution Network Service Provider* is referable to arrangements with a person other than the provider that, in the opinion of the AER, do not reflect arm's length terms; [6.10.1]
- (10)(7) the extent ~~the Distribution Network Service Provider has considered, and made provision for, to which any~~ efficient and prudent non-network alternatives can displace parts of the forecast of required capital expenditure; [6.10.1] [6.12]
- (8) a realistic expectation of the demand forecast and cost inputs; [6.13]
- (9) whether the forecast of required capital expenditure includes amounts relating to a project that should more appropriately be identified as a contingent project under clause 6.6A.1(c); [6.18.1]
- (10) any other factors the AER considers relevant. [6.14]

<u>Forecast capital expenditure and contingent projects</u>	[6.18.2]
(e) <u>Paragraphs (f) – (i) apply where:</u>	[6.18.2]
(1) <u>in a <i>regulatory control period</i> (the first <i>regulatory control period</i>) the <i>AER</i> determines under clause 6.6A.2(e)(1)(iii) that the likely completion date for a <i>contingent project</i> is a date which occurs in the immediately following <i>regulatory control period</i> (the second <i>regulatory control period</i>); and</u>	[6.18.2]
(2) <u>there is an unspent amount of capital expenditure for that <i>contingent project</i> under paragraph (f).</u>	[6.18.2]
(f) <u>A <i>Distribution Network Service Provider’s building block proposal</i> for the second <i>regulatory control period</i>, must include in the forecast of required capital expenditure referred to in paragraph (a) an amount of any unspent capital expenditure for each <i>contingent project</i> as described in paragraph (e)(2), that equals the difference (if any) between:</u>	[6.18.2]
(1) <u>the total capital expenditure for that <i>contingent project</i>, as determined by the <i>AER</i> in the first <i>regulatory control period</i> under clause 6.6A.2(e)(1)(ii); and</u>	[6.18.2]
(2) <u>the total of the capital expenditure actually incurred (or estimated capital expenditure for any part of the first <i>regulatory control period</i> for which actual capital expenditure is not available) in the first <i>regulatory control period</i> for that <i>contingent project</i>.</u>	[6.18.2]
(g) <u>The <i>AER</i> must include in any forecast capital expenditure for the second <i>regulatory control period</i> which the <i>AER</i> determined in accordance with clause 6.12.1(3), the amount of any unspent capital expenditure calculated in accordance with paragraph (f).</u>	[6.18.2]
(h) <u>Without limiting the requirement in paragraph (g), in determining the forecast of required capital expenditure of a <i>Distribution Network Service Provider</i> for the second <i>regulatory control period</i> in accordance with this clause 6.5.7, the <i>AER</i> must not:</u>	[6.18.2]
(1) <u>assess the reasonableness of the amount of unspent capital expenditure for a <i>contingent project</i> referred to in paragraph (f) or the remaining period to which the <i>contingent project</i> applies;</u>	[6.18.2]
(2) <u>assess the reasonableness of the timing of the unspent capital expenditure within the remaining period for a <i>contingent project</i> referred to in paragraph (f) except as part of determining the total forecast capital expenditure under paragraph (c); or</u>	[6.18.2]
(3) <u>take into account any amount which represents for a <i>contingent project</i> referred to in paragraph (f) the difference between:</u>	[6.18.2]
(i) <u>the amount representing the sum of the forecast capital expenditure for that <i>contingent project</i> for each year of the</u>	

immediately preceding regulatory control period referred to in clause 6.6A.2(e)(1)(ii); and

[6.18.2]

(ii) the total capital expenditure actually incurred (or estimated capital expenditure for any part of the preceding regulatory control period for which actual capital expenditure is not available) in the immediately preceding regulatory control period for that contingent project.

[6.18.2]

(i) A building block proposal in respect of the second regulatory control period must not include in the forecast of required capital expenditure referred to in paragraph (a) any capital expenditure for a contingent project for the first regulatory control period:

[6.18.2]

(1) to the extent that the capital expenditure was included in the amount of capital expenditure for that contingent project as determined in the first regulatory control period under clause 6.6A.2(e)(1)(i); and

[6.18.2]

(2) the capital expenditure actually incurred (or estimated capital expenditure for any part of the first regulatory control period for which actual capital expenditure is not available) in the first regulatory control period for that contingent project exceeded the capital expenditure referred to in subparagraph (1).

[6.18.2]

6.5.8 Efficiency benefit sharing scheme

(a) The AER must, in accordance with the *distribution consultation procedures*, develop and *publish* a scheme or schemes (*efficiency benefit sharing scheme*) that provide for a fair sharing between *Distribution Network Service Providers* and *Distribution Network Users* of:

(1) the efficiency gains derived from the operating expenditure of *Distribution Network Service Providers* for a *regulatory control period* being less than; and

(2) the efficiency losses derived from the operating expenditure of *Distribution Network Service Providers* for a *regulatory control period* being more than,

the forecast operating expenditure ~~accepted or substituted~~ determined by the AER for that *regulatory control period*.

[6.1.1]

(b) An *efficiency benefit sharing scheme* may (but is not required to) be developed to cover efficiency gains and losses related to capital expenditure or *distribution losses*.

(c) In developing and implementing an *efficiency benefit sharing scheme*, the AER must have regard to:

(1) the need to ensure that benefits to consumers likely to result from the scheme are sufficient to warrant any reward or penalty under the scheme for *Distribution Network Service Providers*; and

- (2) the need to provide *Distribution Network Service Providers* with a continuous incentive, so far as is consistent with economic efficiency, to reduce operating expenditure and, if the scheme extends to capital expenditure, capital expenditure; and
 - (3) the desirability of both rewarding *Distribution Network Service Providers* for efficiency gains and penalising *Distribution Network Service Providers* for efficiency losses; and
 - (4) any incentives that *Distribution Network Service Providers* may have to capitalise expenditure; and
 - (5) the possible effects of the scheme on incentives for the implementation of non-network alternatives.
- (d) The *AER* may, from time to time and in accordance with the *distribution consultation procedures*, amend or replace an *efficiency benefit sharing scheme*.

...

6.6 Adjustments after making of building block determination.

6.6.1 Cost pass through

- (a) If a *positive change event* occurs, a *Distribution Network Service Provider* may seek the approval of the *AER* to pass through to *Distribution Network Users* a *positive pass through amount*.
- (b) If a *negative change event* occurs, the *AER* may require the *Distribution Network Service Provider* to pass through to *Distribution Network Users* a *negative pass through amount* as determined by the *AER* under paragraph (g).

Positive pass through

- (c) To seek the approval of the *AER* to pass through a *positive pass through amount*, a *Distribution Network Service Provider* must submit to the *AER*, within 90 *business days* of the relevant *positive change event* occurring, a written statement which specifies:
 - (1) the details of the *positive change event*; and
 - (2) the date on which the *positive change event* occurred; and
 - (3) the *eligible pass through amount* in respect of that *positive change event*; and
 - (4) the *positive pass through amount* the provider proposes in relation to the *positive change event*; and

- (5) the amount of the *positive pass through amount* that the provider proposes should be passed through to *Distribution Network Users* in each *regulatory year* during the *regulatory control period*; and
 - (6) evidence:
 - (i) of the actual and likely increase in costs referred to in subparagraph (3); and
 - (ii) that such costs occur solely as a consequence of the *positive change event*; and
 - (7) such other information as may be required under any relevant *regulatory information instrument*.
- (d) If the *AER* determines that a *positive change event* has occurred in respect of a statement under paragraph (c), the *AER* must determine:
- (1) the *approved pass through amount*; and
 - (2) the amount of that *approved pass through amount* that should be passed through to *Distribution Network Users* in each *regulatory year* during the *regulatory control period*,
- taking into account the matters referred to in paragraph (j).
- (e) If the *AER* does not make the determinations referred to in paragraph (d) within ~~60~~40 *business days* from the date it receives the *Distribution Network Service Provider's* statement and accompanying evidence under paragraph (c), then, on the expiry of that period, the *AER* is taken to have determined that:

[6.35.1]

- (1) the *positive pass through amount* as proposed in the provider's statement under paragraph (c) is the *approved pass through amount* in respect of that *positive change event*; and
- (2) the amount of that *positive pass through amount* that the provider proposes in its statement under paragraph (c) should be passed through to *Distribution Network Users* in each *regulatory year* during the *regulatory control period*, is the amount that should be so passed through in each such *regulatory year*.

Negative pass through

- (f) A *Distribution Network Service Provider* must submit to the *AER*, within 90 *business days* of becoming aware of the occurrence of a *negative change event* for the provider, a written statement which specifies:
- (1) the details of the *negative change event* concerned; and
 - (2) the date the *negative change event* occurred; and

- (3) the costs in the provision of *standard control services* that the provider has saved and is likely to save until the end of the *regulatory control period* as a result of the *negative change event*; and
 - (4) the aggregate amount of those saved costs that the provider proposes should be passed through to *Distribution Network Users*; and
 - (5) the amount of the costs referred to in subparagraph (4) the provider proposes should be passed through to *Distribution Network Users* in each *regulatory year* during the *regulatory control period*; and
 - (6) such other information as may be required under any relevant *regulatory information instrument*.
- (g) If a *negative change event* occurs (whether or not the occurrence of that *negative change event* is notified by the provider to the AER under paragraph (f)) and the AER determines to impose a requirement on the provider in relation to that *negative change event* as described in paragraph (b), the AER must determine:
- (1) the *required pass through amount*; and
 - (2) taking into account the matters referred to in paragraph (j):
 - (i) how much of that *required pass through amount* should be passed through to *Distribution Network Users* (the "*negative pass through amount*"); and
 - (ii) the amount of that *negative pass through amount* that should be passed through to *Distribution Network Users* in each *regulatory year* during the *regulatory control period*.
- (h) A *Distribution Network Service Provider* must provide the AER with such information as the AER requires for the purpose of making a determination under paragraph (g) within the time specified by the AER in a notice provided to the provider by the AER for that purpose.

Consultation

- (i) Before making a determination under paragraph (d) or (g), the AER may consult with the relevant *Distribution Network Service Provider* and such other persons as the AER considers appropriate, on any matters arising out of the relevant *pass through event* the AER considers appropriate.

Relevant factors

- (j) In making a determination under paragraph (d) or (g) in respect of a *Distribution Network Service Provider*, the AER must take into account:
 - (1) the matters and proposals set out in any statement given to the AER by the provider under paragraph (c) or (f); and

- (2) in the case of a *positive change event*, the increase in costs in the provision of *standard control services* that the provider has incurred and is likely to incur until the end of the *regulatory control period* as a result of the *positive change event*; and
- (3) in the case of a *positive change event*, the efficiency of the provider's decisions and actions in relation to the risk of the *positive change event*, including whether the provider has failed to take any action that could reasonably be taken to reduce the magnitude of the *eligible pass through amount* in respect of that *positive change event* and whether the provider has taken or omitted to take any action where such action or omission has increased the magnitude of the amount in respect of that *positive change event*; and
- (4) the time cost of money based on the *weighted average cost of capital* for the provider for the relevant *regulatory control period*; and
- (5) the need to ensure that the provider only recovers any actual or likely increment in costs under this paragraph (j) to the extent that such increment is solely as a consequence of a *pass through event*; and
- (6) in the case of a *tax change event*, any change in the way another *tax* is calculated, or the removal or imposition of another *tax*, which, in the *AER's* opinion, is complementary to the *tax change event* concerned; and
- (7) whether the costs of the *pass through event* have already been factored into the calculation of the provider's *annual revenue requirement*; and
- (8) any other factors the *AER* considers relevant.

Extension of time limits

(k) The *AER* must, by written notice to a *Distribution Network Service Provider*, extend a time limit fixed in clause 6.6.1(c) or clause 6.6.1(f) if the *AER* is satisfied that the difficulty of assessing or quantifying the effect of the relevant *pass through event* justifies the extension.

(l) The *AER* may extend the time limit fixed in clause 6.6.1(e) by up to a further 60 business days if:

[6.35]

(1) making the determination involves questions of unusual complexity or difficulty; or

[6.35]

(2) the *AER* requires information further to that specified in the *Distribution Network Service Provider's* written statement submitted under clause 6.6.1(c).

[6.35]

...

6.6.4 Reopening of distribution determination for capital expenditure [6.16]

(a) Subject to paragraph (b), a *Distribution Network Service Provider* may, during a *regulatory control period*, apply to the AER to revoke and substitute a distribution determination that applies to it where: [6.16]

(1) an event that is beyond the reasonable control of the provider has occurred during that *regulatory control period* and the occurrence of that event during that period (or of an event of a similar kind) could not reasonably have been foreseen at the time of the making of the distribution determination ('the **event**'); [6.16]

(2) no forecast capital expenditure was determined by the AER for that period under clause 6.12.1(3) in relation to the event that has occurred; [6.16]

(3) the provider proposes to undertake capital expenditure to rectify the adverse consequences of the event; [6.16]

(4) the total of the capital expenditure required during the *regulatory control period* to rectify the adverse consequences of the event: [6.16]

(i) exceeds 5% of the value of the regulatory asset base for the relevant *Distribution Network Service Provider* for the first year of the relevant *regulatory control period*; [6.16]

(ii) is such that, if undertaken, it is reasonably likely (in the absence of any other reduction in capital expenditure) to result in the total actual capital expenditure for that *regulatory control period* exceeding the total of the forecast capital expenditure for that *regulatory control period* as determined by the AER in accordance with clause 6.12.1(3); and [6.16]

(5) the provider can demonstrate that it is not able to reduce capital expenditure in other areas to avoid the consequence referred to in subparagraph (4)(ii) without materially adversely affecting the *reliability* and security of the relevant *distribution system*; [6.16]

(6) a failure to rectify the adverse consequences of the event would be likely to materially adversely affect the *reliability* and security of the relevant *distribution system*; and [6.16]

(7) the event is not a *pass through event*, or a *trigger event* associated with a *contingent project*. [6.16]

(b) An application referred to in paragraph (a) must not be made within 90 *business days* prior to the end of a *regulatory year*. [6.16]

(c) Following its receipt of an application made in accordance with paragraphs (a) and (b), the AER must: [6.16]

- (1) consult with the *Distribution Network Service Provider* and such other persons as it considers appropriate in relation to the application; and [6.16]
- (2) make its decision on the application within 40 *business days* of that application being made. [6.16]
- (d) The *AER* must, and must only, revoke a distribution determination following an application made in accordance with paragraphs (a) and (b) if the *AER* is satisfied of each of the matters referred to in paragraph (a). [6.16]
- (e) If the *AER* revokes a distribution determination under paragraph (d), the *AER* must make a new distribution determination in substitution for the revoked determination to apply for the remainder of the *regulatory control period* for which the revoked determination was to apply. [6.16]
- (f) The substituted distribution determination must only vary from the revoked distribution determination to the extent necessary: [6.16]
- (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of such additional capital expenditure that the *AER* considers would meet the costs the prudent *Distribution Network Service Provider* would require to achieve one or more of the *capital expenditure objectives*, having regard to, as it considers appropriate, the *capital expenditure factors* (in which case the amount of that adjustment will be taken to be determined by the *AER* under clause 6.5.7(c); and [6.16]
- (2) to reflect the effect of any resultant increase in forecast capital expenditure on: [6.16]
- (i) the forecast operating expenditure for the remainder of the *regulatory control period*; [6.16]
- (ii) the *annual revenue requirement* for each *regulatory year* in the remainder of the *regulatory control period*; and [6.16]
- (iii) the X factor for each of the remaining *regulatory years* of the *regulatory control period*. [6.16]
- (g) If the *AER* revokes and substitutes a distribution determination under paragraph (e), that revocation and substitution must take effect from the commencement of the next *regulatory year*. [6.16]
- Extension of time limits** [6.36]
- (h) The *AER* may extend the time limit fixed in subparagraph (c)(2) by up to a further 60 *business days* if: [6.36]
- (1) making the decision involves questions of unusual complexity or difficulty; or [6.36]

(2) the AER requires information further to that specified in the Distribution Network Service Provider’s application submitted under paragraph (a). [6.36]

6.6.5 Other incentive schemes [6.20]

(a) The AER may, in accordance with the distribution consultation procedures, develop and publish an incentive scheme or schemes other than the service target performance incentive scheme, demand management incentive scheme and the efficiency benefit sharing scheme to apply to Distribution Network Service Providers where the AER considers that there are benefits to end users or customers arising from applying the incentive scheme or schemes to Distribution Network Service Providers. [6.20]

(b) In developing and implementing an incentive scheme or schemes under this clause, the AER must have regard to: [6.20]

(1) the possible effects of the scheme or schemes on the incentives for Distribution Network Service Providers to implement non-network alternatives; and [6.20]

(2) the need to ensure that the incentives are sufficient to offset any financial incentives the Distribution Network Service Provider may have to reduce costs at the expense of service levels; and [6.20]

(3) the need to ensure that benefits to consumers likely to result from the incentive scheme or schemes are sufficient to warrant any reward or penalty under the incentive scheme or schemes for Distribution Network Service Providers; and [6.20]

(4) the willingness of the customer or end user to pay for improved performance in the delivery of services; and [6.20]

(5) any other incentives available to the Distribution Network Service Provider under the Rules or under a relevant distribution determination. [6.20]

(c) At the same time as it publishes an incentive scheme or schemes under this clause, the AER must also publish, if applicable, any parameters for the scheme. For the avoidance of doubt, the parameters may differ as between Distribution Network Service Providers and over time. [6.20]

(d) The AER must set out in the incentive scheme or schemes that is developed and published under this clause any requirements with which the values attributed to the parameters referred to in paragraph (c) must comply. [6.20]

(e) The AER may, from time to time and in accordance with the distribution consultation procedures, amend or replace any other incentive scheme or schemes that is developed and published under this clause, except that no such amendment or replacement may change the application of the incentive scheme or schemes to a Distribution Network Service Provider in respect of

a regulatory control period that has commenced before, or that will commence within 15 months of, the amendment or replacement coming into operation. [6.20]

(f) Subject to paragraph (g) the AER may, from time to time and in accordance with the distribution consultation procedures, amend or replace the values to be attributed to any parameters applicable to the incentive scheme or schemes. [6.20]

(g) An amendment or replacement referred to in paragraph (f) must not change the values to be attributed to any parameters applicable to the incentive scheme or schemes where: [6.20]

(1) those values must be included in information accompanying a regulatory proposal; and [6.20]

(2) the regulatory proposal is required to be submitted under clause 6.8.2(a) at a time that is within 2 months of the publication of the amended or replaced parameters applicable to the incentive scheme or schemes. [6.20]

6.6A Contingent Projects [6.18]

6.6A.1 Acceptance of a Contingent Project in a distribution determination [6.18]

(a) A building block proposal may include proposed contingent capital expenditure, which the Distribution Network Service Provider considers is reasonably required for the purpose of undertaking a proposed contingent project. [6.18]

(b) The proposed contingent capital expenditure for each proposed contingent project must: [6.18]

(1) exceed the threshold set out in the Distribution Contingent Project Guidelines, or if there no such threshold, \$10 million; and [6.18]

(2) not be otherwise provided for (either in part or in whole) in the total forecast capital expenditure included in the building block proposal as referred to in clause 6.5.7(a). [6.18]

(c) The proposed contingent project and the proposed contingent capital expenditure must comply with the requirements of any relevant regulatory information instrument. [6.18]

(d) The trigger events in relation to each proposed contingent project must be appropriate. [6.18]

(e) The AER may identify any contingent project, which may include a proposed contingent project (if any), that: [6.18]

(1) meets the requirements specified in paragraphs (b), (c) and (d); [6.18]

- (2) the AER considers a prudent *Distribution Network Service Provider* would be required to undertake if the associated *trigger event* occurs during the *regulatory control period* to achieve one or more of the *capital expenditure objectives*; and [6.18]
- (3) is not otherwise provided for (either in part or in whole) in the total of the forecast of required capital expenditure for the relevant *regulatory control period* which is determined by the AER in accordance with clause 6.5.7(c). [6.18]
- (f) In determining whether a *trigger event* in relation to a *proposed contingent project* is appropriate for the purposes of paragraph (d), the AER must have regard to the need for: [6.18]
- (1) a *trigger event* to be reasonably specific and capable of objective verification; [6.18]
- (2) a *trigger event* to be a condition or event, which, if it occurs, makes the undertaking of the *proposed contingent project* reasonably necessary in order to achieve one or more of the *capital expenditure objectives*; [6.18]
- (3) a *trigger event* to be a condition or event that generates increased costs or categories of costs; [6.18]
- (4) a *trigger event* to be described in such terms that the occurrence of that event or condition is all that is required for a *Distribution Network Service Provider* to make an application to the AER under clause 6.6A.2; and [6.18]
- (5) a *trigger event* to be an event or condition, the occurrence of which is probable during the *regulatory control period*, but the inclusion of capital expenditure in relation to it under clause 6.5.7 is not appropriate because: [6.18]
- (i) it is not sufficiently certain that the event or condition will occur during the *regulatory control period* or if it may occur after that *regulatory control period* or not at all; or [6.18]
- (ii) subject to the requirement to satisfy subparagraph (b)(1)(i), the costs associated with the event or condition are not sufficiently certain. [6.18]
- 6.6A.2 Amendment of distribution determination for contingent project** [6.18]
- (a) Subject to paragraph (b), a *Distribution Network Service Provider* may, during a *regulatory control period*, apply to the AER to amend a distribution determination that applies to that provider where a *trigger event* for a *contingent project* in relation to that distribution determination has occurred. [6.18]
- (b) An application referred to in paragraph (a): [6.18]

- (1) must not be made within 90 *business days* prior to the end of a *regulatory year*; [6.18]
- (2) subject to subparagraph (1), must be made as soon as practicable after the occurrence of the *trigger event*; [6.18]
- (3) must contain the following information: [6.18]
- (i) an explanation that substantiates the occurrence of the *trigger event*; [6.18]
- (ii) a forecast of the total capital expenditure for the *contingent project*; [6.18]
- (iii) a forecast of the capital and incremental operating expenditure, for each remaining *regulatory year* which the *Distribution Network Service Provider* considers is reasonably required for the purpose of undertaking the *contingent project*; [6.18]
- (iv) how the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6.6A.1(b)(1); [6.18]
- (v) the intended date for commencing the *contingent project* (which must be during the *regulatory control period*); [6.18]
- (vi) the anticipated date for completing the *contingent project* (which may be after the end of the *regulatory control period*); and [6.18]
- (vii) an estimate of the incremental revenue which the *Distribution Network Service Provider* considers is likely to be required to be earned in each remaining *regulatory year* of the *regulatory control period* as a result of the *contingent project* being undertaken as described in subparagraph (iii); and [6.18]
- (4) the estimate referred to in subparagraph (3)(vii) must be calculated: [6.18]
- (i) on the basis of the capital expenditure referred to in subparagraph (3)(iii); [6.18]
- (ii) on the basis of the rate of return for that *Distribution Network Service Provider* for the *regulatory control period* as determined pursuant to clause 6.5.2; [6.18]
- (iii) consistently with the manner in which depreciation is calculated under clause 6.5.5; [6.18]
- (iv) to include the incremental operating expenditure referred to in subparagraph (3)(iii); and [6.18]

- (v) in accordance with the requirements for roll forward in the roll-forward model and revenue calculation in the post-tax revenue model. [6.18]
- (c) As soon as practicable after its receipt of an application made in accordance with paragraphs (a) and (b), the AER must publish the application, together with an invitation for written submissions on the application. [6.18]
- (d) The AER must consider any written submissions made under paragraph (c) and must make its decision on the application within 40 business days of its receipt of that application. In doing so the AER may also take into account such other information as it considers appropriate, including any analysis (such as benchmarking) that is undertaken by it for that purpose and the capital expenditure factors. [6.18]
- (e) If the AER is satisfied that the trigger event has occurred, and that the forecast of the total capital expenditure for the contingent project meets the threshold as referred to in clause 6.6A.1(b)(1)(i), it must: [6.18]
- (1) determine:
- (i) the scope of the contingent project that the AER considers a prudent Distribution Network Service Provider would be required to undertake to achieve one or more of the capital expenditure objectives; [6.18]
- (ii) the amount of capital and incremental operating expenditure, for the purpose of undertaking the contingent project for each remaining regulatory year which the AER considers would, respectively, meet the efficient costs that a prudent Distribution Network Service Provider would require to achieve one or more of the capital expenditure objectives and one or more of the operating expenditure objectives; [6.18]
- (iii) the total capital expenditure for the purpose of undertaking the contingent project, which the AER considers would meet the efficient costs that a prudent Distribution Network Service Provider would require to achieve one or more of the capital expenditure objectives; [6.18]
- (iv) the likely commencement and completion dates for the contingent project; and [6.18]
- (v) the incremental revenue which is likely to be required by the Distribution Network Service Provider in each remaining regulatory year as a result of the contingent project being undertaken as described in subparagraphs (i) and (ii), such estimate being calculated in accordance with subparagraph (2); [6.18]
- (2) calculate the estimate referred to in subparagraph (3)(v): [6.18]

- (i) on the basis of the capital expenditure referred to in subparagraph (3)(i); [6.18]
- (ii) to include the incremental operating expenditure referred to in subparagraph (3)(i); and [6.18]
- (iii) otherwise in accordance with subparagraph (b)(4); and [6.18]
- (3) amend the distribution determination in accordance with paragraph (f). [6.18]
- (f) Amendments to a distribution determination referred to in subparagraph (e)(3) must only vary the determination to the extent necessary: [6.18]
 - (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of capital expenditure determined under subparagraph (3)(i) (in which case the amount of that adjustment will be taken to be determined by the AER under clause 6.5.7(c)); [6.18]
 - (2) to adjust the forecast operating expenditure for that *regulatory control period* to accommodate the amount of incremental operating expenditure determined under subparagraph (3)(i) (in which case the amount of that adjustment will be taken to be determined by the AER under clause 6.5.6(c)); [6.18]
 - (3) to reflect the effect of any resultant increase in forecast capital and operating expenditure on: [6.18]
 - (i) the *annual revenue requirement* for each *regulatory year* in the remainder of the *regulatory control period*; and [6.18]
 - (ii) the X factor for each of the remaining *regulatory years* of the *regulatory control period*. [6.18]
- (g) Amendments to a distribution determination take effect from the commencement of the next *regulatory year* of the *regulatory control period*. [6.18]
- Extension of time limits** [6.37]
 - (h) The AER may extend the time limit fixed in paragraph (d) by up to a further 60 *business days* if: [6.37]
 - (1) making the decision involves questions of unusual complexity or difficulty; or [6.37]
 - (2) the AER requires information further to that specified in the *Distribution Network Service Provider's* application submitted under paragraph (c). [6.37]

6.6A.3 Distribution Contingent Project Guidelines [6.18]

Preparation, publication and amendment of Distribution Contingent Project Guidelines [6.18]

(a) The AER may, in accordance with the *distribution consultation procedures*, prepare and *publish* the *Distribution Contingent Project Guidelines*. [6.18]

(b) The AER may, from time to time and in accordance with the *distribution consultation procedures*, amend or replace the *Distribution Contingent Project Guidelines*. [6.18]

Contents of Distribution Contingent Project Guidelines [6.18]

(c) The *Distribution Contingent Project Guidelines* may include, but are not limited to the threshold for a *contingent project* for the purposes of clause 6.6A.1(b)(1)(i) [6.18]

(d) The *Distribution Contingent Project Guidelines* may vary in application as between different *participating jurisdictions* and over time. [6.18]

...

Part E Regulatory proposal

6.8 Regulatory proposal

6.8.1 AER's framework and approach paper

(a) The AER must prepare and *publish* a document (a *framework and approach paper*) in anticipation of every distribution determination.

(b) The *framework and approach paper* should set out the AER's likely approach (together with its reasons for the likely approach), in the forthcoming distribution determination, to:

(1) the classification of *distribution services* in accordance with Part B; and

~~(2) the application to the *Distribution Network Service Provider* of a *service target performance incentive scheme or schemes*; and~~ [6.34]

~~(3) the application to the *Distribution Network Service Provider* of an *efficiency benefit sharing scheme or schemes*; and~~ [6.34]

~~(4) the application to the *Distribution Network Service Provider* (if applicable) of a *demand management incentive scheme or schemes*; and~~ [6.34]

(2) whether there is to be an adjustment for the use or forecast use of assets forming part of the regulatory asset base for the provision of services other than the provision of *standard control services* in the

control mechanism or by an adjustment to the building blocks as referred to in clause 6.4.3(a)(8) or a combination of these adjustments; and

[6.21]

(3) the form (or forms) of the control mechanisms to be applied by the distribution determination and the AER's reasons for deciding on control mechanisms of the relevant form (or forms);

[6.33]

~~(5)~~(4) any other matters on which the AER thinks fit to give an indication of its likely approach.

[6.33.1]

~~(c) The framework and approach paper must state the form (or forms) of the control mechanisms to be applied by the distribution determination and the AER's reasons for deciding on control mechanisms of the relevant form (or forms).~~

[6.33]

(ca) The *framework and approach paper* must include the AER's determination under clause 6.25(b) as to whether or not Part J of Chapter 6A is to be applied to determine the pricing of *transmission standard control services* provided by any *dual function assets* owned, controlled or operated by the *Distribution Network Service Provider*.

(d) A *framework and approach paper* is to be prepared in consultation with the relevant *Distribution Network Service Provider* and with other interested stakeholders.

(e) The AER should complete its *framework and approach paper* for a particular *distribution network* sufficiently in advance of the making of the relevant distribution determination to enable it to be of use to the *Distribution Network Service Provider* in preparing its *regulatory proposal*.

(f) If a distribution determination is currently in force, the AER must commence preparation of, and consultation on, the *framework and approach paper* for the distribution determination that is to supersede it at least 24 months before the end of the current *regulatory control period* and must complete preparation at least 19 months before the end of that *regulatory control period*.

(g) On completing its *framework and approach paper*, the AER must:

(1) give a copy to the *Distribution Network Service Provider*; and

(2) *publish* it.

(h) Subject to clause 6.12.3, a *framework and approach paper* is not binding on the AER or a *Distribution Network Service Provider*.

6.8.2 Submission of regulatory proposal

(a) A *Distribution Network Service Provider* must, whenever required to do so under paragraph (b), submit a *regulatory proposal* to the AER for

distribution services provided by means of, or in connection with, the provider's *distribution system*.

- (b) A *regulatory proposal* must be submitted:
- (1) at least 13 months before the expiry of a distribution determination that applies to the service provider; or
 - (2) if no distribution determination applies to the service provider, within 3 months after being required to do so by the *AER*.
- (c) A *regulatory proposal* must include (but need not be limited to) the following elements:
- (1) a classification proposal:
 - (i) showing how the *distribution services* to be provided by the *Distribution Network Service Provider* should, in the provider's opinion, be classified under this Chapter; and
 - (ii) if the proposed classification differs from the classification suggested in the relevant *framework and approach paper* – including the reasons for the difference; and
 - (2) for *direct control services* classified under the proposal as *standard control services* – a *building block proposal*; and
 - (3) for *direct control services* classified under the proposal as *alternative control services* – a demonstration of the application of the control mechanism, as set out in the *framework and approach paper*, and the necessary supporting information; and
 - (4) for *direct control services* – indicative prices for each year of the *regulatory control period*; and
 - (5) for services classified under the proposal as *negotiated distribution services* – the proposed *negotiating framework*; and
 - (6) an indication/identification of the parts of the proposal (if any) the *Distribution Network Service Provider* claims to be confidential ~~and wants suppressed from publication on that ground.~~
- (d) The *regulatory proposal* must comply with the requirements of, and must contain or be accompanied by the information required by any relevant *regulatory information instrument*.
- (e) If more than one *distribution system* is owned, controlled or operated by a *Distribution Network Service Provider*, then, unless the *AER* otherwise determines, a separate *regulatory proposal* is to be submitted for each *distribution system*.

[6.28]

- (f) If, at the commencement of this Chapter, different parts of the same *distribution system* were separately regulated, then, unless the AER otherwise determines, a separate *regulatory proposal* is to be submitted for each part as if it were a separate *distribution system*.

6.9 Preliminary examination and consultation

...

6.9.3 Consultation

- (a) Subject to the provisions of the Law and the *Rules* about the disclosure of *confidential information*, the AER must *publish* a *regulatory proposal* submitted or resubmitted to it by the provider under this Part, together with:

- (1) the AER's proposed *Negotiated Distribution Service Criteria* for the provider; and

- (2) ~~an invitation for written submissions on the regulatory proposal and the proposed *Negotiated Distribution Service Criteria*,~~ [6.29]

a notice inviting written submissions: [6.29]

- (i) on the *regulatory proposal*, from any person other than the *Distribution Network Service Provider* that submitted the *regulatory proposal*; and [6.29]

- (ii) on the proposed *Negotiated Distribution Service Criteria*, from any person; and [6.29]

- (3) the date by which written submissions must be made, which must not be earlier than 30 *business days* after the notice inviting written submissions is *published*, [6.29]

after the AER decides that the *regulatory proposal* complies (or that there is sufficient compliance) with the requirements of the Law and the *Rules*.

- (b) The AER may *publish* an issues paper examining issues related to the *regulatory proposal* and the proposed *Negotiated Distribution Service Criteria*, at the same time as, or subsequent to, *publication* of the ~~invitation~~ notice referred to in paragraph (a)(2). [6.29]

- (c) ~~Any person may make a written submission to the AER on the *regulatory proposal* or the proposed *Negotiated Distribution Service Criteria* within the time specified in the invitation referred to in paragraph (a)(2), which must be not earlier than 30 *business days* after the invitation for submissions is *published* under that paragraph.~~ [6.29]

Subject to subparagraph (a)(2), a *Distribution Network Service Provider* may only make a written submission in response to a notice *published* under subparagraph (a)(2) in respect of a *regulatory proposal* that was submitted by another *Distribution Network Service Provider*. [6.29]

- (d) Where: [6.29]
- (1) the AER is making distribution determinations in relation to two or more Distribution Network Service Providers at the same time; and [6.29]
- (2) a Distribution Network Service Provider makes a written submission referred to in paragraph (c), [6.29]
- that written submission may only address material differences between: [6.29]
- (3) the regulatory proposal that was submitted by it; and [6.29]
- (4) a regulatory proposal that was submitted by another Distribution Network Service Provider. [6.29]

6.10 Draft distribution determination and further consultation

6.10.1 Making of draft distribution determination

- Subject to the Law and rule 6.14(a), the AER must: [6.3] [6.10] [6.30]
- (a) consider any written submissions made ~~under~~in accordance with rule 6.9; [6.3] [6.10] [6.30]
- (b) consider any regulatory proposal submitted under rule 6.8 or 6.9; [6.3] [6.10]
- (c) have regard to analysis undertaken by or for the AER; and [6.3] [6.10]
- (d) ~~must~~ make a draft distribution determination in relation to the Distribution Network Service Provider. [6.3.1] [6.10.1]

6.10.2 Publication of draft determination and consultation

- (a) The AER must *publish*:
- (1) the draft distribution determination; and
- (2) notice of the making of the draft distribution determination; and
- (3) the AER's reasons for suggesting that the distribution determination should be made as proposed including the draft constituent decisions i.e. the decisions made in accordance with rule 6.12 on which the draft distribution determination is predicated; and
- (4) notice of a predetermination conference; and
- (5) ~~an invitation for~~ notice inviting written submissions on its draft distribution determination, from any person other than the Distribution Network Service Provider that submitted the regulatory proposal on which the draft distribution detertmination was based; and [6.30]

(6) the date by which written submissions must be made, which must not be earlier than 30 business days after the draft distribution determination is published.

[6.30]

(b) The *AER* must hold a predetermination conference at the time, date and place specified in the notice under paragraph (a)(4) for the purpose of explaining the draft distribution determination and receiving oral submissions from interested parties. Any person may attend such a predetermination conference but the procedure to be adopted at the conference will be at the discretion of the senior *AER* representative in attendance.

~~(c) Any person may make a written submission to the *AER* on the draft distribution determination within the time specified in the invitation referred to in paragraph (a)(5), which must be not earlier than 30 business days after the making of the draft determination.~~

[6.30]

A *Distribution Network Service Provider* may only make a written submission in response to a notice published under subparagraph (a)(5) in respect of a draft distribution determination that has been in made in respect of another *Distribution Network Service Provider*.

[6.30]

(d) Where:

[6.30]

(1) the *AER* is making distribution determinations in relation to two or more *Distribution Network Service Providers* at the same time; and

[6.30]

(2) a *Distribution Network Service Provider* makes a written submission referred to in paragraph (c),

[6.30]

that written submission may only address material differences between:

[6.30]

(3) the draft distribution determination that has been in made in relation to it; and

[6.30]

(4) the draft distribution determination that has been in made in relation to another *Distribution Network Service Provider*.

[6.30]

6.10.3 Submission of revised proposal

(a) ~~In addition to making written submissions,~~ The *Distribution Network Service Provider* may, not more than 30 business days after the publication of the draft distribution determination, submit a revised *regulatory proposal* to the *AER*.

[6.30]

(b) A *Distribution Network Service Provider* may only make the revisions referred to in paragraph (a) so as to incorporate the substance of any changes required to address matters raised by the draft distribution determination or the *AER*'s reasons for it.

- (c) A revised *regulatory proposal* must comply with the requirements of, and must contain or be accompanied by the information required by, any relevant *regulatory information instrument*.
- (c1) A revised *regulatory proposal* must identify the parts of the proposal (if any) the *Distribution Network Service Provider* claims to be confidential. [6.28]
- (d) Subject to the provisions of the Law and the *Rules* about the disclosure of *confidential information*, the AER must *publish* a revised *regulatory proposal* submitted by the *Distribution Network Service Provider* under paragraph (a), together with the accompanying information, as soon as practicable after receipt by the AER.
- (e) The AER may, but need not, invite publish a notice inviting, from any person other than the *Distribution Network Service Provider* that submitted the revised *regulatory proposal*, written submissions on the revised *regulatory proposal*. [6.30]
- (f) Paragraphs (g), (h) and (i) apply if the AER publishes a written notice under paragraph (e). [6.30]
- (g) Any person, other than the *Distribution Network Service Provider* that submitted the proposal, may make a written submission to the AER on the revised *regulatory proposal* within the time specified in the notice, which must be not earlier than 30 *business days* after the publication of the notice. [6.30]
- (h) A *Distribution Network Service Provider* may only make a written submission in response to a notice published under paragraph (e) in respect of a revised *regulatory proposal* that was submitted by another *Distribution Network Service Provider*. [6.30]
- (i) Where: [6.30]
- (1) the AER is making distribution determinations in relation to two or more *Distribution Network Service Providers* at the same time; and [6.30]
- (2) a *Distribution Network Service Provider* makes a written submission referred to in paragraph (h), [6.30]
- that written submission may only address material differences between: [6.30]
- (3) the revised *regulatory proposal* that was submitted by it; and [6.30]
- (4) a revised *regulatory proposal* that was submitted by another *Distribution Network Service Provider*. [6.30]

6.11 Distribution determination

6.11.1 Making of distribution determination

Subject to the Law and rule 6.14(a), the AER must: [6.3] [6.10] [6.30]

- (a) consider any submissions made on the draft distribution determination, ~~or on;~~ [6.3] [6.10] [6.30]
- (b) consider any revised *regulatory proposal* submitted to it under clause 6.10.3; [6.3] [6.10]
- (c) consider any submissions on any revised *regulatory proposal*; [6.30]
- (d) have regard to analysis undertaken by or for the AER; and [6.3] [6.10]
- (e) ~~must~~make a distribution determination in relation to the *Distribution Network Service Provider*. [6.3.1] [6.10.1]

...

6.12 Requirements relating to draft and final distribution determinations

6.12.1 Constituent decisions

A distribution determination is predicated on the following decisions by the AER (constituent decisions):

- (1) a decision on the classification of the services to be provided by the *Distribution Network Service Provider* during the course of the *regulatory control period*;
- (2) a decision ~~on the *Distribution Network Service Provider's* current *building block proposal* in which the AER either approves or refuses to approve;~~determines [6.38]
 - (i) ~~the annual revenue requirement for the provider, as set out in the *building block proposal*, for each *regulatory year* of the *regulatory control period*;~~and [6.38]
 - (2A) (ii) a decision in which the AER either approves or refuses to approve the commencement and length of the *regulatory control period* as proposed in the *building block proposal*; [6.38]
- (3) ~~a decision in which the AER either:~~ [6.8.1]
 - (i) ~~acting in accordance with clause 6.5.7(c), accepts the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *building block proposal*;~~or [6.8.1]
 - (ii) ~~acting in accordance with clause 6.5.7(d), does not accept the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *building block proposal*, in which case the AER must set out its reasons for that decision and an estimate of the total of the *Distribution Network Service Provider's* required capital expenditure for the *regulatory control period* that the AER is satisfied~~

- ~~reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors;~~ [6.8.1]
- a decision in accordance with clause 6.5.7(c) on the *Distribution Network Service Provider's* total of the forecast of required capital expenditure for the *regulatory control period* and the forecast of required capital expenditure for each *regulatory year* of the *regulatory control period*; [6.8.1]
- (3A) a decision in accordance with clause 6.6A.1(c) that identifies the *contingent projects* and their associated *trigger events* for the *regulatory control period*; [6.18.3]
- (4) ~~a decision in which the AER either:~~ [6.1.1]
- (i) ~~acting in accordance with clause 6.5.6(c), accepts the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *building block proposal*; or~~ [6.1.1]
- (ii) ~~acting in accordance with clause 6.5.6(d), does not accept the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *building block proposal*, in which case the AER must set out its reasons for that decision and an estimate of the total of the *Distribution Network Service Provider's* required operating expenditure for the *regulatory control period* that the AER is satisfied reasonably reflects the *operating expenditure criteria*, taking into account the *operating expenditure factors*;~~ [6.1.1]
- a decision in accordance with clause 6.5.6(c) on the *Distribution Network Service Provider's* total of the forecast of required operating expenditure for the *regulatory control period* and the forecast of required operating expenditure for each *regulatory year* of the *regulatory control period*; [6.1.1]
- (5) a decision in relation to the rate of return ~~on whether to apply or depart from a value, method or credit rating level set out in a *statement of regulatory intent*~~ in accordance with clause ~~6.5.4~~6.5.2; [6.22.3]
- (6) a decision on the regulatory asset base as at the commencement of the *regulatory control period* in accordance with clause 6.5.1 and schedule 6.2;
- (7) a decision on the estimated cost of corporate income tax to the provider for each *regulatory year* of the *regulatory control period* in accordance with clause 6.5.3 and, where relevant, a ~~*statement of regulatory intent*~~*statement on the cost of capital* under clause 6.5.4; [6.22.1]
- (8) a decision on whether or not to approve the depreciation schedules submitted by the *Distribution Network Service Provider* and, if the AER decides against approving them, a decision determining depreciation schedules in accordance with clause 6.5.5(b);
- (9) a decision on how any applicable *efficiency benefit sharing scheme*, *service target performance incentive scheme*, ~~or~~ *demand management incentive*

scheme or other incentive scheme or schemes developed and published under clause 6.6.5 is to apply to the *Distribution Network Service Provider*;

[6.20.4]

- (10) a decision in which the *AER* decides other appropriate amounts, values or inputs;
- (11) a decision on the control mechanism (including the X factor) for *standard control services* (to be in accordance with the relevant *framework and approach paper*);
- (12) a decision on the control mechanism for *alternative control services* (to be in accordance with the relevant *framework and approach paper*);
- (13) a decision on how compliance with a relevant control mechanism is to be demonstrated;

(13A) a decision on whether there is to be an adjustment for the use or forecast use of assets forming part of the regulatory asset base for the provision of services other than the provision of *standard control services* in the control mechanism or by an adjustment to the building blocks or a combination of these adjustments;

[6.21]

- (14) a decision on the additional *pass through events* that are to apply for the *regulatory control period*;
- (15) a decision on the *negotiating framework* that is to apply to the *Distribution Network Service Provider* for the *regulatory control period* (which may be the *negotiating framework* as proposed by the provider, some variant of it, or a framework substituted by the *AER*);
- (16) a decision in which the *AER* decides the *Negotiated Distribution Service Criteria* for the *Distribution Network Service Provider*;
- (17) a decision on the procedures for assigning customers to *tariff classes*, or reassigning customers from one *tariff class* to another (including any applicable restrictions);
- (17A) a decision on the approval of the proposed *pricing methodology* for *transmission standard control services* (if rule 6.26 applies);
- (18) a decision on whether depreciation for establishing the regulatory asset base as at the commencement of the following *regulatory control period* is to be based on actual or forecast capital expenditure;
- (19) a decision on how the *Distribution Network Service Provider* is to report to the *AER* on its recovery of *designated pricing proposal charges* for each *regulatory year* of the *regulatory control period* and on the adjustments to be made to subsequent *pricing proposals* to account for over or under recovery of those charges; and
- (20) a decision on how the *Distribution Network Service Provider* is to report to the *AER* on its recovery of *jurisdictional scheme amounts* for each

regulatory year of the regulatory control period and on the adjustments to be made to subsequent pricing proposals to account for over or under recovery of those amounts. A decision under this subparagraph (20) must be made in relation to each jurisdictional scheme under which the Distribution Network Service Provider has jurisdictional scheme obligations at the time the decision is made.

...

6.12.3 Extent of AER's discretion in making distribution determinations

- (a) Subject to this clause and other provisions of this Chapter 6 explicitly negating or limiting the AER's discretion, the AER has a discretion to accept or approve, or to refuse to accept or approve, any element of a *regulatory proposal*.
- (b) The classification of services must be as set out in the relevant *framework and approach paper* unless the AER considers that, in the light of the *Distribution Network Service Provider's regulatory proposal* and the submissions received, there are ~~good reasons for departing~~circumstances that were unforeseen at the time the AER published the relevant framework and approach paper which justify a departure from the classification ~~proposed~~specified in that paper. [6.32]
- (c) The control mechanisms must be as set out in the relevant *framework and approach paper* unless the AER considers that, in the light of the Distribution Network Service Provider's regulatory proposal and the submissions received, there are circumstances that were unforeseen at the time the AER published the relevant framework and approach paper which justify a departure from the control mechanisms specified in that paper. [6.33]
- ~~(d) The AER must approve the total revenue requirement for a Distribution Network Service Provider for a regulatory control period, and the annual revenue requirement for each regulatory year of the regulatory control period, as set out in the provider's current building block proposal, if the AER is satisfied that those amounts have been properly calculated using the post-tax revenue model on the basis of amounts calculated, determined or forecast in accordance with the requirements of Part C of this Chapter 6.~~ [6.38]
- ~~(e)~~(d) The AER must approve a proposed *regulatory control period* if the proposed period consists of 5 *regulatory years*. [6.38.1]
- ~~(f) If the AER refuses to approve an amount or value referred to in clause 6.12.1, the substitute amount or value on which the distribution determination is based must be:~~ [6.38]
 - ~~(1) determined on the basis of the current regulatory proposal; and~~ [6.38]
 - ~~(2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the Rules.~~ [6.38]

~~(g)~~(e) The *AER* must approve a proposed *negotiating framework* if the *AER* is satisfied that it adequately complies with the requirements of Part D. [6.38.1]

~~(h)~~(f) If the *AER* refuses to approve the proposed *negotiating framework*, the approved amended *negotiating framework* must be: [6.38.1]

- (1) determined on the basis of the current proposed *negotiating framework*; and
- (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the *Rules*.

6.13 Revocation and substitution or amendment of distribution determination for wrong information or error [6.17]

~~(a) The *AER* may (but is not required to) revoke a distribution determination during a regulatory control period if it appears to the *AER* that the determination is affected by a material error or deficiency of one or more of the following kinds:~~ [6.17]

~~(1) a clerical mistake or an accidental slip or omission;~~ [6.17]

~~(2) a miscalculation or misdescription;~~ [6.17]

~~(3) a defect in form;~~ [6.17]

~~(4) a deficiency resulting from the provision of false or materially misleading information to the *AER*.~~ [6.17]

(a) Except as provided for in clause 6.6.4(d), the *AER* may only (but is not required to) revoke or amend a distribution determination during a regulatory control period where it appears to the *AER* that: [6.17]

(1) the annual revenue requirement was set on the basis of information provided by or on behalf of the relevant *Distribution Network Service Provider* to the *AER* that was false or misleading in a material particular; or [6.17]

(2) there was a material error or deficiency in the distribution determination. [6.17]

(b) If the *AER* revokes a distribution determination under paragraph ~~(a)~~(a)(1) or (a)(2), the *AER* must make a new distribution determination in substitution for the revoked distribution determination to apply for the remainder of the *regulatory control period* for which the revoked distribution determination was to apply. [6.17.1]

(c) If the *AER* revokes and substitutes or amends a distribution determination under paragraph (a)(1) or (a)(2), the substituted or amended distribution determination must only vary from the revoked or existing distribution determination to the extent necessary to correct the relevant error or deficiency. [6.17.1]

- (d) The *AER* may only revoke and substitute or amend a distribution determination under this rule 6.13, if it has first consulted with the relevant *Distribution Network Service Provider* and such other persons as it considers appropriate. [6.17.1]

6.14 Miscellaneous

- ~~(a) The *AER* may, but is not required to, consider any submission made pursuant to an invitation for submissions after the time for making the submission has expired.~~ [6.31]

6.14.1 Out-of-scope submissions and late submissions [6.31]

- (a) Subject to the Law, where the *AER* publishes a notice inviting submissions under this Part E, the *AER* must not consider any submission, or any material supplied with a submission, that does not comply with clause 6.9.3, 6.10.2 or 6.10.3, or is otherwise not relevant to the purpose of the invitation. [6.31]

- (b) Where a *Distribution Network Service Provider* resubmits a *regulatory proposal* under clause 6.9.2 or submits a revised *regulatory proposal* under clause 6.10.3, the *AER* must not consider: [6.31]

(1) a resubmitted or revised *regulatory proposal* that was submitted late;
or [6.31]

(2) if the revised *regulatory proposal* includes material that is not permitted under clause 6.10.3—that material. [6.31]

- (c) This clause does not prevent the *AER* from accepting typographical corrections, corrections of miscalculations and corrections of other errors that do not affect the substance of a *regulatory proposal*. [6.31]

6.14.2 Other matters [6.31.1]

- ~~(a)~~(a) Nothing in this Part E is to be construed as precluding the *AER* from *publishing* any issues, consultation and discussion papers, or holding any conferences and information sessions, that the *AER* considers appropriate. [6.31.1]

- ~~(b)~~(b) Subject to paragraph ~~(c)~~(c), as soon as practicable after the *AER* receives a submission in response to an invitation referred to in clause 6.9.3(a)(2) or 6.10.2(a)(5) (whether or not the submission was made before the time for making it has expired), the *AER* must *publish* that submission. [6.31.1]

- ~~(c)~~(c) The *AER* must not *publish* a submission referred to in paragraph ~~(b)~~(b) to the extent it contains information which has been clearly identified as confidential by the person making the submission. [6.31.1]

- ~~(d)~~(d) The *AER* may give such weight to *confidential information* identified in accordance with paragraph ~~(c)~~(c) in a submission as it considers appropriate, having regard to the fact that such information has not been made publicly available. [6.31.1]

(e) The AER may give such weight to confidential information identified in accordance with clause 6.8.2(c)(6) in a regulatory proposal or clause 6.10.3(c1) in a revised regulatory proposal, as it considers appropriate, having regard to the fact that such information has not been made publicly available.

[6.28]

(f) Paragraph ~~(d)~~(c) does not apply to the extent that any other provision of the Law or the Rules permits or requires such information to be publicly released by the AER.

[6.31.1]

...

Schedule 6.1 Contents of building block proposals

...

S6.1.3 Additional information and matters

A *building block proposal* must contain at least the following additional information and matters:

- (1) an identification and explanation of any significant interactions between the forecast capital expenditure and forecast operating expenditure programs;
- (2) a proposed pass through clause with a proposal as to the events that should be defined as *pass through events*;
- (3) a description, including relevant explanatory material, of how the *Distribution Network Service Provider* proposes the *efficiency benefit sharing scheme* should apply for the relevant *regulatory control period*;
- (4) a description, including relevant explanatory material, of how the *Distribution Network Service Provider* proposes the *service target performance incentive scheme* should apply for the relevant *regulatory control period*;
- (5) a description, including relevant explanatory material, of how the *Distribution Network Service Provider* proposes the *demand management incentive scheme* (if applicable) should apply for the relevant *regulatory control period*;

(5A) a description, including relevant explanatory material, of how the *Distribution Network Service provider* proposes any other incentive scheme or schemes developed and published under clause 6.6.5 (if applicable) should apply for the relevant *regulatory control period*;

[6.20.5]

- (6) the provider's calculation of revenues or prices for the purposes of the control mechanism proposed by the provider together with:
 - (i) details of all amounts, values and inputs (including X factors) relevant to the calculation; and

- (ii) an explanation of the calculation and the amounts, values and inputs involved in the calculation; and
 - (iii) a demonstration that the calculation and the amounts, values and inputs on which it is based comply with relevant requirements of the Law and the *Rules*;
- (7) the provider's calculation of the regulatory asset base for the relevant *distribution system* for each *regulatory year* of the relevant *regulatory control period* using the *roll forward model* referred to in clause 6.5.1 of the *Rules*, together with:
- (i) details of all amounts, values and other inputs used by the provider for that purpose; and
 - (ii) a demonstration that any such amounts, values and other inputs comply with the relevant requirements of Part C of Chapter 6 of the *Rules*; and
 - (iii) an explanation of the calculation of the regulatory asset base for each *regulatory year* of the relevant *regulatory control period* and of the amounts, values and inputs referred to in subparagraph (i);
- (8) ~~the commencement and length of the period nominated by the *Distribution Network Service Provider* for the purposes of clause 6.5.2(e)(2) of the *Rules*~~any information or matters in relation to the rate of return calculated for the purposes of clause 6.5.2(b) as required by the applicable *statement on the cost of capital*; [6.23.5]
- (9) the provider's calculation of the proposed rate of return, ~~including any proposed departure from the values, methods or credit rating levels set out in an applicable *statement of regulatory intent* in accordance with clause 6.5.2 and the applicable *statement on the cost of capital*~~; [6.22.4]
- (10) the *post-tax revenue model* completed to show its application to the *Distribution Network Service Provider* and the completed *roll-forward model*;
- (11) the provider's estimate of the cost of corporate income tax for each *regulatory year* of the *regulatory control period*;
- (12) the depreciation schedules nominated by the *Distribution Network Service Provider* for the purposes of clause 6.5.5 of the *Rules*, which categorise the relevant assets for these purposes by reference to well accepted categories such as:
- (i) asset class (eg *distribution lines* and *substations*); or
 - (ii) category driver (eg *regulatory obligation or requirement*, replacement, *reliability*, net market benefit, and business support),
- together with:

- (iii) details of all amounts, values and other inputs used by the provider to compile those depreciation schedules; and
 - (iv) a demonstration that those depreciation schedules conform with the requirements set out in clause 6.5.5(b) of the *Rules*; and
 - (v) an explanation of the calculation of the amounts, values and inputs referred to in subparagraph (iii);
- (13) the commencement and length of the *regulatory control period* proposed by the *Distribution Network Service Provider*;
- (14) if the *Distribution Network Service Provider* is seeking a determination by the *AER* that a *proposed contingent project* is a *contingent project* for the purposes of the relevant distribution determination: [6.18.4]
- (i) a description of the *proposed contingent project*, including reasons why the provider considers the project should be accepted as a *contingent project* for the *regulatory control period*; [6.18.4]
 - (ii) a forecast of the capital expenditure which the provider considers is reasonably required for the purpose of undertaking the *proposed contingent project*; [6.18.4]
 - (iii) the methodology used for developing that forecast and the key assumptions that underlie it; [6.18.4]
 - (iv) information that demonstrates that the undertaking of the *proposed contingent project* is reasonably required in order to achieve one or more of the *capital expenditure objectives*; [6.18.4]
 - (v) information that demonstrates that the *proposed contingent capital expenditure* for the *proposed contingent project* complies with the requirements set out in clause 6.6A.1(b); and [6.18.4]
 - (vi) the *trigger events* which are proposed in relation to the *proposed contingent project* and an explanation of how each of those conditions or events addresses the matters referred to in clause 6.6A.1(d). [6.18.4]

Schedule 6.2 Regulatory Asset Base

S6.2.1 Establishment of opening regulatory asset base for a regulatory control period

(a) **Application of this clause**

This clause S6.2.1

- (1) applies to the establishment of the value of the regulatory asset base for a *distribution system* as at the beginning of a *regulatory control period* on the roll forward of the regulatory asset base to that

regulatory control period from the previous *regulatory control period*; and

- (2) also applies to the establishment of the value of the regulatory asset base for a *distribution system* as at the beginning of a *regulatory control period* where the *distribution system* was not immediately before that time the subject of a *building block determination*.

(b) **Roll forward model to comply with this clause**

The values to be used for completing the *roll forward model* must be established in accordance with this clause and clauses S6.2.2 and S6.2.3.

(c) **Distribution systems of specific providers**

- (1) In the case of a *distribution system* owned, controlled or operated by one of the following *Distribution Network Service Providers* as at the commencement of this schedule, the value of the regulatory asset base for that *distribution system* as at the beginning of that first *regulatory year* must be determined by rolling forward the regulatory asset base for that *distribution system*, as set out in the table below, in accordance with this schedule:

Jurisdiction	<i>Distribution Network Service Provider</i>	Regulatory Asset Base (\$m)
Australian Capital Territory	ActewAGL	510.54 (as at 1 July 2004 in July 2004 dollars)
New South Wales	Country Energy	2,440 (as at 1 July 2004 in July 2004 dollars)
	EnergyAustralia	4,116 (as at 1 July 2004 in July 2004 dollars)
	Integral Energy	2,283 (as at 1 July 2004 in July 2004 dollars)
Queensland	ENERGEX	4,308.1 (as at 1 July 2005 in July 2005 dollars)
	Ergon Energy	4,198.2 (as at 1 July 2005 in July 2005 dollars) but, if the Queensland Competition Authority nominates a different amount in writing to the AER, the regulatory asset base is the amount so nominated.
South Australia	ETSA Utilities	2,466 (as at 1 July 2005 in December 2004 dollars)
Tasmania	Aurora Energy	981.108 (as at 1 January 2008 in July 2006 dollars)

Jurisdiction	<i>Distribution Network Service Provider</i>	Regulatory Asset Base (\$m)
		dollars)
Victoria	AGL Electricity	578.4 (as at 1 January 2006 in July 2004 dollars)
	Citipower	990.9 (as at 1 January 2006 in July 2004 dollars)
	Powercor	1,626.5 (as at 1 January 2006 in July 2004 dollars)
	SP AusNet	1,307.2 (as at 1 January 2006 in July 2004 dollars)
	United Energy	1,220.3 (as at 1 January 2006 in July 2004 dollars)

(2) The values in the table above are to be adjusted for the difference between:

- (i) any estimated capital expenditure that is included in those values for any part of a previous *regulatory control period*; and
- (ii) the actual capital expenditure for that part of the previous *regulatory control period*.

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.

(3) When rolling forward a regulatory asset base under subparagraph (1), the *AER* must take into account the derivation of the values in the above table from past regulatory decisions and the consequent fact that they relate only to the regulatory asset base identified in those decisions.

(d) Other distribution systems

(1) This paragraph (d) applies to a *distribution system* not referred to in paragraphs (c) when *standard control services* that are provided by means of, or in connection with, that system are to be regulated under a *building block determination*.

(2) The value of the regulatory asset base for that *distribution system* as at the beginning of the first *regulatory year* of the first *regulatory control period* for the relevant *Distribution Network Service Provider* is the prudent and efficient value of the assets that are used by the provider to provide those *standard control services* (but only to the extent that they are used to provide such services), as determined by

the *AER*. In determining this value, the *AER* must have regard to the matters referred to in clause S6.2.2.

- (3) The value of the regulatory asset base for that *distribution system* as at the beginning of the first *regulatory year* of any subsequent *regulatory control period* must be determined by rolling forward the value of the regulatory asset base for that *distribution system* as at the beginning of the first *regulatory year* of the first *regulatory control period* in accordance with this schedule.

(e) **Method of adjustment of value of regulatory asset base**

Except as otherwise provided in paragraph (c) or (d), the value of the regulatory asset base for a *distribution system* as at the beginning of the first *regulatory year* of a *regulatory control period* must be calculated by adjusting the value (the **previous value**) of the regulatory asset base for that *distribution system* as at the beginning of the first *regulatory year* of the immediately preceding *regulatory control period* (the **previous control period**) as follows:

- (1) The previous value of the regulatory asset base must be increased by ~~the amount of all capital expenditure incurred during the previous control period:~~ [6.15]

(i) the lesser of: [6.15]

(a) the total amount of capital expenditure incurred during the previous control period and, for any part of the previous control period for which actual capital expenditure is not available, the amount of the estimated capital expenditure determined by the *AER* for that part of the previous control period for which actual capital expenditure is not available (the **total capital expenditure**); and [6.15]

(b) the total of the forecast capital expenditure determined in the distribution determination for the previous control period adjusted for any amount of capital expenditure forming part of an *approved pass through amount* or a *negative pass through amount* determined by the *AER* for the previous control period or, if an *approved pass through amount* or a *negative pass through amount* does not include all of the increase or decrease in capital expenditure that the *AER* considered should be passed through in relation to the relevant *pass through event*, that increase or decrease in capital expenditure (the **total forecast capital expenditure**); and [6.15]

(ii) 60% of the total capital expenditure that exceeds the total forecast capital expenditure. [6.15]

Any amounts of related party margins and capitalised overheads included in the total capital expenditure must not exceed the amounts determined in accordance with how related party margins and capitalised overheads were included in the total of the forecast capital expenditure determined in the distribution determination for the previous control period.

[6.19]

Note:

[6.15]

The total of the forecast capital expenditure determined in a distribution determination may be subject to clauses 6.6.4(f) and 6.6A.2(e)(3).

[6.15]

~~(2) The previous value of the regulatory asset base must be increased by the amount of the estimated capital expenditure approved by the AER for any part of the previous control period for which actual capital expenditure is not available.~~

[6.15]

~~(3)~~(2) The previous value of the regulatory asset base must be adjusted for the difference between:

[6.15.1]

- (i) the estimated capital expenditure for any part of a previous *regulatory control period* where that estimated capital expenditure has been included in that value; and
- (ii) the actual capital expenditure for that part of the previous *regulatory control period*.

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.

~~(4)~~(3) ~~The previous value of the regulatory asset base must only be increased by actual or estimated capital expenditure to the extent that all such capital expenditure is~~ The capital expenditure referred to in subparagraphs (1), (2) and (3) must only be capital expenditure as properly allocated to the provision of *standard control services* in accordance with the *Cost Allocation Method* for the relevant *Distribution Network Service Provider*.

[6.15.1] [6.15.2]

~~(5)~~(4) The previous value of the regulatory asset base must be reduced by the amount of depreciation of the regulatory asset base during the previous *regulatory control period*, calculated in accordance with the distribution determination and taking into account the amount of capital expenditure (if any) included in any *approved pass through amount or negative pass through amount* for that period.

[6.15] [6.15.1] [6.27]

Note:

[6.15]

The amount of depreciation of the regulatory asset base during the previous *regulatory control period* calculated in accordance with the distribution determination for that period may be subject to clauses 6.6.4(f) and 6.6A.2(e)(3).

[6.15]

~~(6)~~(5) The previous value of the regulatory asset base must be reduced by the disposal value of any asset where that asset has been disposed of during the previous *regulatory control period*. [6.15.1]

~~(7)~~(6) The previous value of the regulatory asset base must be reduced by the value of an asset where the asset was previously used to provide *standard control services* (or their equivalent under the previous regulatory system) but, as a result of a change to the classification of a particular service under Part B, is not to be used for that purpose for the relevant *regulatory control period*. [6.15.1]

~~(8)~~(7) The previous value of the regulatory asset base may be increased by the value of an asset to which this subparagraph applies to the extent that: [6.15.1]

- (i) the *AER* considers the asset to be reasonably required to achieve one or more of the *capital expenditure objectives*; and
- (ii) the value of the asset has not been otherwise recovered.

This subparagraph applies to an asset that:

- (i) was not used to provide *standard control services* (or their equivalent under the previous regulatory system) in the previous *regulatory control period* but, as a result of a change to the classification of a particular service under Part B, is to be used for that purpose for the relevant *regulatory control period*; or
- (ii) was never previously used to provide *standard control services* (or their equivalent under the previous regulatory system) but is to be used for that purpose for the relevant *regulatory control period*.

- (f) An increase or reduction in the value of the regulatory asset base under subparagraph (7) or (8) of paragraph (e) is to be based on the portion of the value of the asset properly allocated, or formerly properly allocated, to *standard control services* in accordance with the principles and policies set out in the *Cost Allocation Method* for the relevant *Distribution Network Service Provider*. The value of the relevant asset is taken to be its value as shown in independently audited and published accounts.

...

2 Chapter 6A

2.1 Tables of draft rules

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Table 2.1 Proposed rule change: forecasts of capital expenditure and operating expenditure

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.1]	6A.6.6(c)(1) 6A.6.6(c)(2) 6A.6.6(c)(3) 6A.6.6(d) 6A.6.6(f)	6A.6.6(c)	Revision to: <ul style="list-style-type: none">– remove the requirement that the AER is to accept or reject the TNSP’s proposed forecast of opex;– remove the opex criteria; and– provide that the AER is to determine the forecast of opex that it considers would meet the efficient costs that a prudent TNSP would require to achieve the opex objectives.
[6A.1.1]	6A.5.4(a)(6) 6A.5.4(b)(6) 6A.6.5(a) 6A.8.2(h)(2) 6A.14.1(1) 6A.14.1(3)(i) 6A.14.1(3)(ii) 6A.14.3(c)(2) 6A.14.3(c)(4)	6A.5.4(a)(6) 6A.5.4(b)(6) 6A.6.5(a) 6A.8.2(f)(2) 6A.14.1(1) 6A.14.1(iv) 6A.14.3(b)(2) 6A.14.3(b)(4)	Consequential revisions to replace references to ‘accept’ or ‘refuse to accept’ to ‘determine’.
[6A.2]	6A.6.6(e)	6A.6.6(d)	Revision to: <ul style="list-style-type: none">– the chapeau to the opex factors; and– consequential renumbering revisions.
[6A.3]	6A.6.6(e)(1) 6A.6.6(e)(2) 6A.6.6(e)(3)	6A.12.1(a)(1) 6A.12.1(a)(2) 6A.12.1(a)(3) 6A.13.1(a)(1) 6A.13.1(a)(2) 6A.13.1(a)(3)	Revision to: <ul style="list-style-type: none">– relocate procedural opex factors; and– remove requirement that analysis undertaken by or for the AER be published prior to the AER’s decision.
[6A.3.1]	6A.6.6(e)(4) 6A.6.6(e)(5) 6A.6.6(e)(6) 6A.6.6(e)(7) 6A.6.6(e)(9) 6A.6.6(e)(10) 6A.6.6(e)(11) 6A.6.6(e)(12) 6A.6.6(e)(13) 6A.12.1(a) 6A.13.1(a)	6A.6.6(d)(1) 6A.6.6(d)(2) 6A.6.6(d)(3) 6A.6.6(d)(4) 6A.6.6(d)(6) 6A.6.6(d)(7) 6A.6.6(d)(8) 6A.6.6(d)(9) 6A.6.6(d)(10) 6A.12.1(a)(4) 6A.13.1(a)(4)	Consequential renumbering revisions.
[6A.4]	6A.6.6(e)(8)	6A.6.6(d)(5)	Revision to existing opex factor to provide for the AER to consider whether the opex forecast is consistent with the incentives provided in each of the service target performance incentive scheme, the efficiency benefit sharing scheme or other incentive scheme or schemes made under clause 6A.7.5.

[6A.5]	6A.6.6(e)(12)	6A.6.6(e)(9)	Revision to existing opex factor to provide for the AER to consider any efficient and prudent non network alternatives may impact the forecast.
[6A.6]	–	6A.6.6(d)(11)	New opex factor to provide that the AER may have regard to a realistic expectation of the demand forecast and cost inputs (existing opex criterion at clause 6A.6.6(c)(3)).
[6A.7]	–	6A.6.6(d)(12)	New opex factor to provide for the AER to have regard to any factor it considers relevant.
[6A.8]	6A.6.7(c)(1) 6A.6.7(c)(2) 6A.6.7(c)(3) 6A.6.7(d) 6A.6.7(f)	6A.6.7(c)	Revision to: – remove the requirement that the AER is to accept or reject the TNSP’s proposed forecast of capex; – remove the capex criteria; and – provide that the AER is to determine the forecast of capex that it considers would meet the efficient costs that a prudent TNSP would require to achieve the capex objectives.
[6A.8.1]	6A.6.7(i) 6A.6.7(j) 6A.6.7(j)(2) 6A.7.1(a)(2) 6A.7.1(a)(4)(ii) 6A.7.1(f)(1) 6A.8.2(h)(1) 6A.14.1(1) 6A.14.1(2)(i) 6A.14.1(2)(ii) 6A.14.3(c)(1) 6A.14.3(c)(4)	6A.6.7(g) 6A.6.7(h) 6A.6.7(h)(2) 6A.7.1(a)(2) 6A.7.1(a)(4)(ii) 6A.7.1(f)(1) 6A.8.2(f)(1) 6A.14.1(1) 6A.14.1(iii) 6A.14.3(b)(1) 6A.14.3(b)(4)	Consequential revisions to replace references to ‘accept’ or ‘refuse to accept’ to ‘determine’.
[6A.8.2]	6A.7.1(1)(a)	6A.7.1(1)(a)	Consequential revision to remove the reference ‘to the provider’.
[6A.9]	6A.6.7(e)	6A.6.7(d)	Revision to: – the chapeau to the opex factors; and – consequential renumbering revision.
[6A.10]	6A.6.7(e)(1) 6A.6.7(e)(2) 6A.6.7(e)(3)	6A.12.1(a)(1) 6A.12.1(a)(2) 6A.12.1(a)(3) 6A.13.1(a)(1) 6A.13.1(a)(2) 6A.13.1(a)(3)	Revision to: – move existing procedural capex factors to rules 6A.12 and 6A.13; and – remove requirement that analysis undertaken by or for the AER be published prior to AER decision.
[6A.10.1]	6A.12.1(a) 6A.13.1(a)	6A.12.1(a)(4) 6A.13.1(a)(4)	Consequential renumbering revisions.
[6A.10.2]	6A.6.7(e)(4) 6A.6.7(e)(5)	6A.6.7(d)(1) 6A.6.7(d)(2)	Consequential renumbering and referencing

	6A.6.7(e)(6)	6A.6.7(d)(3)	revisions.
	6A.6.7(e)(7)	6A.6.7(d)(4)	
	6A.6.7(e)(9)	6A.6.7(d)(6)	
	6A.6.7(e)(10)	6A.6.7(d)(7)	
	6A.6.7(e)(11)	6A.6.7(d)(8)	
	6A.6.7(e)(12)	6A.6.7(d)(9)	
	6A.6.7(e)(13)	6A.6.7(d)(10)	
	6A.6.7(g)	6A.6.7(e)	
	6A.6.7(g)(1)	6A.6.7(e)(1)	
	6A.6.7(h)	6A.6.7(f)	
	6A.6.7(i)	6A.6.7(g)	
	6A.6.7(j)(1)	6A.6.7(h)(1)	
	6A.6.7(j)(2)	6A.6.7(h)(2)	
	6A.6.7(j)(3)	6A.6.7(h)(3)	
	6A.6.7(k)	6A.6.7(i)	
[6A.11]	6A.6.7(e)(8)	6A.6.7(d)(5)	Revision to existing capex factor to provide for the AER to consider whether the capex forecast is consistent with the incentives provided in each of the service target performance incentive scheme, the efficiency benefit sharing scheme or other incentive scheme or schemes made under clause 6A.7.5.
[6A.12]	6A.6.7(e)(12)	6A.6.7(d)(9)	Revision to capex factor to provide for the AER to consider any efficient and prudent non network alternatives may displace parts of the forecast.
[6A.13]	–	6A.6.7(d)(11)	New capex factor to provide that the AER may have regard to a realistic expectation of the demand forecast and cost inputs (existing capex criterion at clause 6A.6.7(c)(3)).
[6A.14]	–	6A.6.7(d)(12)	New capex factor to provide that the AER may have regard to any factor it considers relevant.

Table 2.2 Proposed rule change: regulatory asset base roll forward incentive mechanism

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.15]	S6A.2.1(f)(1) S6A.2.1(f)(2) S6A.2.1(f)(5)	S6A.2.1(f)(1)(i)(a) S6A.2.1(f)(1)(i)(b) S6A.2.1(f)(1)(ii) S6A.2.1(f)(1) Note S6A.2.1(f)(4) S6A.2.1(f)(4) Note	Revision to: – provide that only actual capex (and where actual capex is not available, estimated capex) up to the amount of the forecast capex allowance determined in the revenue determination for the relevant regulatory control period adjusted to include (or remove) the amount of any capex used to determine any approved pass through amounts or negative pass through amounts; and – provide that 60% of any actual capex that exceeds the forecast capex allowance,

			is to be rolled into the RAB.
[6A.15.1]	S6A.2.1(f)(3) S6A.2.1(f)(4) S6A.2.1(f)(5) S6A.2.1(f)(6) S6A.2.1(f)(7) S6A.2.1(f)(8)	S6A.2.1(f)(2) S6A.2.1(f)(3) S6A.2.1(f)(4) S6A.2.1(f)(5) S6A.2.1(f)(6) S6A.2.1(f)(7)	Consequential renumbering revision.
[6A.15.2]	S6A.2.1(f)(4)	S6A.2.1(f)(4)	Revision to clarify that all capex must be properly allocated to the provision of prescribed transmission services in accordance with the cost allocation methodology.

Table 2.3 Proposed rule change: contingent projects

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.16]	6A.8.1(b)(1) 6A.8.1(b)(2)(i) 6A.8.1(b)(2)(ii) 6A.8.1(b)(2)(iii) 6A.8.1(b)(3) 6A.8.1(b)(4) 6A.8.2(f) 6A.8.2(f)(1) 6A.8.2(f)(2) 6A.8.2(f)(3) 6A.8.2(f)(4) 6A.8.2(g) 6A.8.2(g)(1) 6A.8.2(g)(2) 6A.8.2(g)(3) 6A.8.2(g)(4) 6A.8.2(g)(5) 6A.8.2(g)(6) 6A.8.2(g)(7) 6A.8.2(g)(8) 6A.8.2(g)(9)	6A.8.1(b)(1) 6A.8.1(b)(2) 6A.8.1(c) 6A.8.1(d) 6A.8.1(e)(1) 6A.8.1(e)(2) 6A.8.1(e)(3)	Revision to provide that a TNSP may propose contingent projects and the AER's role is to identify any contingent projects for the relevant regulatory control period.
[6A.16.1]	6A.8.1(c) 6A.8.1(c)(5)(ii) 6A.8.2(b)(3)(iv) 6A.8.2(e) 6A.6.6(e)(10) 6A.6.7(e)(10) S6A.1.3(10)(v) S6A.1.3(10)(vi)	6A.8.1(f) 6A.8.1(f)(5)(ii) 6A.8.2(b)(3)(iv) 6A.8.2(e) 6A.6.6(d)(7) 6A.6.7(d)(7) S6A.1.3(9)(v) S6A.1.3(9)(vi)	Consequential renumbering and referencing revisions.
[6A.16.2]	6A.8.1(c)(2)	6A.8.1(f)(2)	Revision to: <ul style="list-style-type: none"> – consequential renumbering; and – clarify that a trigger event is to be associated with a contingent project that is required to be undertaken to achieve one or more of the

capex objectives.

[6A.16.3]	6A.8.1(c)(4)	6A.8.1(f)(4)	Revision to: <ul style="list-style-type: none">– consequential renumbering; and– clarify that the occurrence of a trigger event is all that is required for the TNSP to make an application to the AER under clause 6A.8.2, not for the revenue determination to be amended.
[6A.16.4]	6A.14.1(4)(i) 6A.14.1(4)(ii) 6A.14.1(4)(iii) 6A.14.1(4)(iv)	6A.14.1(1)(v)	Consequential revision to provide that the AER must identify any contingent projects in its draft and final decisions.
[6A.17]	6A.8.2(d)	6A.8.2(d)	Revision to provide that in making a decision on a contingent project application, the AER may also take into account the capex factors.
[6A.18]	6A.8.2(e)(1)(i) 6A.8.2(e)(1)(ii) 6A.8.2(e)(1)(iii) 6A.8.2(e)(1)(iv)	6A.8.2(e)(1)(i) 6A.8.2(e)(1)(ii) 6A.8.2(e)(1)(iii) 6A.8.2(e)(1)(iv) 6A.8.2(e)(1)(v)	Revision to: <ul style="list-style-type: none">– allow the AER to determine the scope of a contingent project and the expenditure it considers a TNSP would require to achieve any one of the opex objectives and the capex objectives; and– consequentially renumber provisions.
[6A.18.1]	6A.8.2(e)(2) 6A.8.2(e)(2)(i) 6A.8.2(e)(2)(ii) 6A.8.2(e)(3) 6A.6.7(g)(1) 6A.6.7(h)(1) 6A.6.7(j)(3)(i) 6A.6.7(k)(1) 6A.8.2(h)(1) 6A.8.2(h)(2) 6A.8.2(i)	6A.8.2(e)(2) 6A.8.2(e)(2)(i) 6A.8.2(e)(2)(ii) 6A.8.2(e)(3) 6A.6.7(e)(1) 6A.6.7(f)(1) 6A.6.7(h)(3)(i) 6A.6.7(i)(1) 6A.8.2(f)(1) 6A.8.2(f)(2) 6A.8.2(g)	Consequential renumbering revisions.
[6A.19]	–	6A.8.3(a) 6A.8.3(b) 6A.8.3(c) 6A.8.3(d)	New clause to allow the AER to make the Transmission Contingent Project Guidelines to specify, among other things, the threshold for the purposes of clause 6A.8.1(b)(1).
[6A.20]	6A.7.1(7)	6A.7.1(7)	Revision to provide that an event for the purposes of reopening a revenue determination for capex is not a trigger event instead of a contingent project.

Table 2.4 Proposed rule change: amending, revoking and substituting a revenue determination

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.21]	6A.15(a)(1) 6A.15(a)(2) 6A.15(b) 6A.15(c) 6A.15(d) 6A.15(e) 6A.15(f)	6A.15(a)(1) 6A.15(a)(2) 6A.15(b) 6A.15(c) 6A.15(d) 6A.15(e) 6A.15(f)	Revision to allow the AER to amend, in addition to revoke and substitute, a revenue determination or a pricing methodology for wrong information or error.
[6A.21.1]	S6A.4.2(f) 9.	S6A.4.2(f) 9.	Consequential referencing revisions.

Table 2.5 Proposed rule change: excluding profit margins and capitalisation changes from the regulatory asset base

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.22]	S6A.2.1(f)(1)	S6A.2.1(f)(1)	New clause to provide that related party margins or capitalised overheads are only included to the extent that they have been incurred consistently with and as provided for in the total of the forecast capex decided in the revenue determination for that previous period.

Table 2.6 Proposed rule change: cost of capital

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.23]	6A.6.2(b)	6A.6.2(b)(1) 6A.6.2(b)(2)	Revision to: – clarify the chapeau of clause 6A.6.2(b); and – require that the WACC is to be calculated in accordance with the statement on the cost of capital.
[6A.23.1]	6A.6.2(h)	6A.6.2(e)	Revision to specify that the AER must issue a statement on the cost of capital following a review.
[6A.23.2]	6A.6.2(i)(1)	Deleted	Consequential revision.
[6A.23.3]	–	S6A.1.3(6)	New clause to: – require a building block proposal to include the provider's proposed rate of return in accordance with clause 6A.6.2; and – any information required by the statement on the cost of capital.
[6A.24]	6A.6.2(c)(1) 6A.6.2(c)(2) 6A.6.2(c)(2)(i) 6A.6.2(c)(2)(ii)	Deleted	Revision to remove the prescription on how to calculate the nominal risk free rate and the debt risk premium.

	6A.6.2(c)(2)(iii) 6A.6.2(c)(2)(iv) 6A.6.2(d) 6A.6.2(e)		
[6A.24.1]	6A.6.2(f) 6A.6.2(g) 6A.6.2(h) 6A.6.2(i) 6A.6.2(j)	6A.6.2(c) 6A.6.2(d) 6A.6.2(e) 6A.6.2(f) 6A.6.2(g)	Consequential renumbering and referencing revisions.
[6A.24.2]	6A.6.2(h) 6A.6.2(i)(2) 6A.6.2(j)(3) 6A.6.2(j)(4) S6A.1.3(6)	6A.6.2(e) 6A.6.2(g)(3) 6A.6.2(g)(4)	Consequential revisions to remove the reference to the credit rating level.
[6A.24.3]	6A.6.2(i)(iv)	Deleted	Consequential revision to remove reference to the maturity period and bond rates.
[6A.24.4]	6A.6.2(i)(1)(i) 6A.6.2(i)(1)(ii) 6A.6.2(i)(1)(iii) 6A.6.2(i)(1)(iv) 6A.6.2(i)(1)(v) 6A.6.2(i)(2) 6A.6.4(d)	6A.6.2(f)(1) 6A.6.2(f)(2) 6A.6.2(f)(3) 6A.6.2(f)(4) 6A.6.2(f)(5) 6A.6.2(f)(6)	Revision to: <ul style="list-style-type: none"> – introduce new clause 6A.6.2(f) to include the debt risk premium; – move the reference to the assumed utilisation of imputation credits from clause 6A.6.4(d) as matters to be reviewed; and – clarify the existing matters to be reviewed.
[6A.24.5]	6A.6.2(j)(3)	6A.6.2(g)(3)	Consequential referencing revision.
[6A.24.6]	6A.6.2(j)(3) heading preceding 6A.6.2(f)	6A.6.2(g)(3) heading preceding 6A.6.2(c)	Consequential revision to replace reference to 'parameters' with 'matters' as it is no longer the case it is only parameters to be reviewed.
[6A.24.7]	6A.6.2(j)(3)	6A.6.2(g)(3)	Revision to provide reference to the need for the values or methods 'that vary according to the efficiency of the TNSP'.
[6A.24.8]	6A.6.2(b)	6A.6.2(b)	Consequential revision to remove references to the nominal risk free rate and the debt risk premium being calculated in accordance with paragraphs (c) and (e).
[6A.24.9]	6A.6.4(b)	Deleted	Consequential revision to remove clause 6A.6.4(b) which is redundant.
[6A.25]	6A.6.2(b) 6A.6.4(a)	6A.6.2(b) 6A.6.4(a)	Revision to remove references that deem the values of the equity beta, the market risk premium, the market value of debt as a portion of the market value of equity and the assumed utilisation of imputation credits.
[6A.26]	6A.6.2(j)(4)(i) 6A.6.2(j)(4)(ii) 6A.6.4(e)(1) 6A.6.4(e)(2)	6A.6.2(g)(4) 6A.6.2(g)(5)	Revision to: <ul style="list-style-type: none"> – remove the reference to the need for persuasive evidence before adopting a different value or method of calculating a parameter which cannot be determined with

			certainty;
			<ul style="list-style-type: none"> – preserve the requirements that in undertaking a review, the AER must have regard to the previously adopted value or method and the national electricity objective; and – remove clause 6A.6.4(e) which is redundant.
[6A.27]	6A.6.2(h) 6A.6.4(f)	6A.6.2(h) 6A.6.2(i)	<p>Revision to:</p> <ul style="list-style-type: none"> – introduce new clause 6A.6.2(h) to provide that a statement on the cost of capital only applies to a revenue proposal submitted after it is published – introduce new clause 6A.6.2(l) to provide that a revenue determination to which a statement on the cost of capital applies must be consistent with that statement. – remove clause 6A.6.4(f) which is redundant.
[6A.28]	6A.6.2(f) 6A.6.2(g) 6A.6.4(c)	6A.6.2(c) 6A.6.2(d)	<p>Revision to:</p> <ul style="list-style-type: none"> – introduce new clauses 6A.6.2(f) to provide that the next review is to be concluded by 1 March 2014 and subsequent reviews within five year intervals thereafter; – introduce new clause 6A.6.2(g) to provide that a review must be undertaken in accordance with the transmission consultation procedures, subject to the reference in rule 6A.20(e) to 80 business days being read as a reference to 100 business days; and – remove clause 6A.6.4(c) which is redundant.

Table 2.7 Proposed rule change: other incentive schemes

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.29]	–	6A.7.5(a) 6A.7.5(b)(1) 6A.7.5(b)(2) 6A.7.5(b)(3) 6A.7.5(b)(4) 6A.7.5(b)(5) 6A.7.5(c) 6A.7.5(d) 6A.7.5(e) 6A.7.5(f) 6A.7.5(g)(1) 6A.7.5(g)(2)	New clause to provide for the AER to develop and publish an incentive scheme or schemes other than the service target performance incentive scheme and the efficiency benefit sharing scheme where the AER considers that there are benefits to end users or customers arising from the incentive scheme or schemes.

[6A.29.1]	–	6A.4.2(6A)	New clause to require a revenue determination to state how any applicable other incentive scheme or schemes are to apply.
[6A.29.2]	6A.6.6(e)(8) 6A.6.7(e)(8)	6A.6.6(d)(5) 6A.6.7(d)(5)	Revision to include reference in the operating and capex factors to other incentives scheme.
[6A.29.3]	–	6A.14.1(3)(iii)	New clause to provide that the AER is required to decide the values that are to be attributed to the parameters for any applicable other incentive scheme or schemes in a draft or final decision.
[6A.29.4]	–	6A.14.3(c)(3)	Consequential referencing and other revisions.
[6A.29.5]	–	6A.17.1(d)(4A)	New clause to require the TNSP to provide information for the purposes of performance reporting regarding any applicable other incentive scheme or schemes.
[6A.29.6]	–	S6A.1.3(3A)	New clause to require a TNSP to provide in the revenue proposal the values that it proposes are to be attributed to the parameters for the purposes of the application to the provider of any applicable incentive scheme or schemes.

Table 2.8 Proposed rule change: depreciation

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.30]	S6A.2.1(f)(5) 6A.6.3(b)(3)	S6A.2.1(f)(5) 6A.6.3(b)(3)	Revision to remove the reference to actual depreciation.
[6A.30.1]	6A.4.2(a)(7) 6A.4.2(a)(8)	6A.4.2(a)(7) 6A.4.2(a)(8) 6A.4.2(a)(9)	Revision to: <ul style="list-style-type: none"> – specify whether depreciation for establishing the RAB is to be based on actual or forecast expenditure; and – renumber provisions.
[6A.30.2]	–	6A.14.1(5)	New clause to require the AER to decide whether actual or forecast depreciation is to be used in establishing the RAB in a draft or final decision.

Table 2.9 Proposed rule change: extension of time frames

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.31]	–	6A.7.3(k) 6A.7.3(l)(1) 6A.7.3(l)(2)	New clauses to: <ul style="list-style-type: none"> – extend the timeframes by when a TNSP must make an application to the AER regarding a positive change event and a negative change event if the AER is satisfied that the difficulty of assessing or quantifying its effect justifies the extension; and

			<ul style="list-style-type: none"> allow the AER to extend the timeframe by up to a further 60 business days in which it makes its decision regarding the positive change event and the approved pass through amount if the decision involves questions of unusual complexity or if it requires further information from the TNSP.
[6A.31.1]	6A.7.3(e)	6A.7.3(e)	Revision to change 60 business days to 40 business days.
[6A.32]	–	6A.7.1(h)(1) 6A.7.1(h)(2)	New clause to provide for the AER to extend the timeframe by up to a further 60 business days in which it makes its decision regarding the TNSP’s reopening application if the decision involves questions of unusual complexity or if it requires further information from the TNSP.
[6A.32.1]	6A.7.1(c)(2)	6A.7.1(c)(2)	Revision to change 60 business days to 40 business days.
[6A.33]	–	6A.8.2(h)(1) 6A.8.2(h)(2)	New clause to provide for the AER to extend the timeframe by up to a further 60 business days in which it makes its decision regarding the TNSP’s trigger event application if the decision involves questions of unusual complexity or if it requires further information from the TNSP.
[6A.33.1]	6A.8.2(d)	6A.8.2(d)	Revision to clause 6A.8.2(d) to change 30 business days to 40 business days.

Table 2.10 Proposed rule change: discretion to apply the incentive schemes

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.34]	6A.4.2(a)(5) 6A.4.2(a)(6) S6A.1.3(2) S6A.1.3(3)	6A.4.2(a)(5) 6A.4.2(a)(6) S6A.1.3(2) S6A.1.3(3)	Revisions to include reference to the ‘applicable’ service target performance incentive scheme and efficiency benefit sharing scheme.

Table 2.11 Proposed rule change: confidential information

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.35]	6A.11.3(a) 6A.12.3(f)	6A.10.1(g) 6A.11.3(a) 6A.12.3(f) 6A.12.3(e) 6A.16.2(e)	Revisions to: <ul style="list-style-type: none"> introduce new clauses to provide that the TNSP must identify the parts of the proposal and any accompanying information (if any) that it claims to be confidential; to clarify what the AER must publish as specified in clauses 6A.11.3(a) and 6A.12.3(f); and introduce new clause to provide for the AER to give such weight it considers appropriate to confidential information in a revenue

proposal or a revised revenue proposal.

Table 2.12 Proposed rule change: decision making process

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.36]	6A.14.1(1) 6A.14.1(1)(iii) 6A.14.1(1)(iv) 6A.14.1(1)(v) 6A.14.1(2) 6A.14.1(2)(i) 6A.14.1(2)(ii) 6A.14.1(2)(iii) 6A.14.1(3) 6A.14.1(3)(i) 6A.14.1(3)(ii) 6A.14.1(4) 6A.14.1(4)(i) 6A.14.1(4)(ii) 6A.14.1(4)(iii) 6A.14.1(4)(iv) 6A.14.1(5) 6A.14.1(6) 6A.14.1(7) 6A.14.1(8)	6A.14.1(1) 6A.14.1(1)(i) 6A.14.1(1)(ii) 6A.14.1(1)(iii) 6A.14.1(1)(iv) 6A.14.1(1)(v) 6A.14.1(1)(vi) 6A.14.1(2) 6A.14.1(3) 6A.14.1(3)(i) 6A.14.1(3)(ii) 6A.14.1(3)(iii) 6A.14.1(3)(iv) 6A.14.1(4) 6A.14.1(5) 6A.14.1(6)	<p>Revision to clause 6A.14.1 to provide that in a draft and final decision the AER is to:</p> <ul style="list-style-type: none"> – determine the total revenue cap, the maximum allowed revenue (consistent with determining the forecast capex and opex); – determine any other amounts, values or inputs that it has used in place of those referred to in clause 6A.10.2(b)(9); – determine whether actual or forecast depreciation is to be used in establishing the opening regulatory asset base; – identify any contingent projects; – approve or refuse to approve the values attributed to the parameters in the service target performance incentive scheme, the efficiency benefit sharing scheme and other incentive scheme developed under clause 6A.7.5; – approve or refuse to approve the commencement and length of the regulatory control period; – approve or refuse to approve the TNSP’s proposed pricing methodology; – specify the negotiated transmission service pricing criteria.
[6A.36.1]	6A.13.2(b) 6A.13.2(b)(1) 6A.13.2(b)(2) 6A.13.2(b)(3) 6A.13.2(b)(4) 6A.13.2(b)(5) 6A.14.3(b) 6A.14.3(b)(1) 6A.14.3(b)(2) 6A.14.3(b)(3) 6A.14.3(b)(4)	Deleted	Consequential revision to remove redundant provisions.
[6A.36.2]	6A.5.4(b)(6) 6A.6.5(a) 6A.6.7(i) 6A.7.1(a)(2) 6A.7.1(a)(4)(ii)	6A.5.4(b)(6) 6A.6.5(a) 6A.6.7(g) 6A.7.1(a)(2) 6A.7.1(a)(4)(ii)	Consequential referencing and renumbering revisions.

6A.13.2(a)	6A.13.2(a)
6A.13.2(c)	6A.13.2(b)
6A.13.2(d)	6A.13.2(c)
6A.14.3(c)	6A.14.3(b)
6A.14.3(d)	6A.14.3(c)
6A.14.3(e)	6A.14.3(d)
6A.14.3(f)	6A.14.3(e)
6A.14.3(g)	6A.14.3(f)
6A.14.3(h)	6A.14.3(g)
6A.14.3(h)(4)	6A.14.3(f)(4)
6A.14.3(i)	6A.14.3(h)
6A.12.1(c)	6A.12.1(c)
S6A.4.2(f)(8)(b)	S6A.4.2(f)(8)(b)
S6A.4.2 Note	S6A.4.2 Note

Table 2.13 Proposed rule change: submissions and late proposals

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.37]	6A.11.3(a)(6) 6A.11.3(b) 6A.11.3(c)	6A.11.3(a)(6) 6A.11.3(a)(7) 6A.11.3(b) 6A.11.3(c) 6A.11.3(d)(1) 6A.11.3(d)(2) 6A.11.3(d)(3) 6A.11.3(d)(4)	Revisions to restrict a TNSP from making a submission on its own revenue proposal and where there are concurrent proposals being assessed, on another DNSP's regulatory proposal unless there are material differences between the two. See Australian Government Solicitor, <i>Advice on possible amendments to the National Electricity Rules</i> , 27 September 2011 (AGS advice), [26]–[28] and [40]; proposed change [5].
[6A.38]	6A.12.2(a)(4) 6A.12.2(c) 6A.12.3(a) 6A.13.1(a)	6A.12.2(a)(4) 6A.12.2(a)(5) 6A.12.2(c) 6A.12.2(d)(1) 6A.12.2(d)(2) 6A.12.2(d)(3) 6A.12.2(d)(4) 6A.13.1(a) 6A.13.1(a)(1)	Revisions to restrict a TNSP from making a submission on its own revised revenue proposal and where there are concurrent proposals being assessed, on another a draft transmission determination applying to another TNSP unless there are material differences between the two. See AGS advice, [29]–[32] and [40]; proposed changes [6] and [7].
[6A.39]	6A.16(a)	6A.16.1(a) 6A.16.1(b)(1) 6A.16.1(b)(2) 6A.16.1(c)	New clause to specify that the AER: <ul style="list-style-type: none"> – must not consider any submission that does not comply with clause 6A.11.3 or 6A.12.2; – any resubmitted or revised regulatory proposals which are late or do not address the matters permitted in clause 6A.11.2 or 6A.12.3; and – may accept corrections or errors that do not affect the substance of the regulatory proposal. See AGS advice, [33]–[40]; proposed change [8].

[6A.39.1]	6A.16(b) 6A.16(c) 6A.16(d) 6A.16(e) 6A.16(f)	6A.16.2(a) 6A.16.2(b) 6A.16.2(c) 6A.16.2(d) 6A.16.2(f)	Consequential renumbering and referencing revisions. See AGS advice, [33]–[38]; proposed change [8].
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Table 2.14 Proposed rule change: cost pass throughs

No.	Current rule(s)	Proposed rule(s)	Remarks
[6A.40]	S6A.2.1(f)(4)	S6A.2.1(f)(4)	Revision to include the effect of the amount of any capex included in determining any approved or required pass through amounts on the total forecast capex and depreciation for the purposes of establishing the opening value of the regulatory asset base.

2.2 Draft rules

6A. Economic Regulation of Transmission Services

...

Part C Regulation of Revenue - Prescribed Transmission Services

...

6A.4 Revenue determinations

...

6A.4.2 Contents of revenue determination

- (a) A revenue determination for a Transmission Network Service Provider is to specify, for a regulatory control period, the following matters:
- (1) the amount of the estimated *total revenue cap* for the *regulatory control period* or the method of calculating that amount;
 - (2) the *annual building block revenue requirement* for each *regulatory year* of the *regulatory control period*;
 - (3) the amount of the *maximum allowed revenue* for each *regulatory year* of the *regulatory control period* or the method of calculating that amount;
 - (4) appropriate methodologies for the indexation of the regulatory asset base;
 - (5) the values that are to be attributed to the *performance incentive scheme parameters* for the purposes of the application to the provider of any applicable *service target performance incentive scheme* that applies in respect of the *regulatory control period*; [6A.34]
 - (6) the values that are to be attributed to the *efficiency benefit sharing scheme parameters* for the purposes of the application to the provider of any applicable *efficiency benefit sharing scheme* that applies in respect of the *regulatory control period*; [6A.34]
 - (6A) the values that are to be attributed to the parameters (as the case may be) in, and for the purposes of application to, the provider of any applicable other incentive scheme or schemes developed and published by the AER under clause 6A.7.5 that applies in respect of the regulatory control period; [6A.29.1]
 - (7) the commencement and length of the *regulatory control period*; ~~and~~ [6A.30.1]
 - (8) such amounts, values or inputs as have been used by the AER in place of those referred to in clause 6A.10.2(b)(9); ~~and~~ [6A.30.1]

(9) whether depreciation for establishing the regulatory asset base as at the commencement of the following *regulatory control period* is to be based on actual or forecast capital expenditure.

[6A.30.1]

- (b) Unless otherwise determined by the *AER*:
- (1) the *total revenue cap* may not relate to more than one *transmission system* that is owned, controlled or operated by a *Transmission Network Service Provider*; and
 - (2) there is to be a separate *total revenue cap* for each such *transmission system*.
- (c) A *regulatory control period* in respect of a *Transmission Network Service Provider* must be not less than 5 *regulatory years*.

6A.5 Post-tax revenue model

...

6A.5.4 Building blocks approach

(a) **Building blocks generally**

The *annual building block revenue requirement* for a *Transmission Network Service Provider* for each *regulatory year* of a *regulatory control period* must be determined using a building blocks approach, under which the building blocks are:

- (1) indexation of the regulatory asset base - see paragraph (b)(1);
- (2) a return on capital for that year - see paragraph (b)(2);
- (3) the depreciation for that year - see paragraph (b)(3);
- (4) the estimated cost of corporate income tax of the provider for that year - see paragraph (b)(4);
- (5) certain revenue increments or decrements for that year arising from the *efficiency benefit sharing scheme* - see paragraph (b)(5);
- (6) the forecast operating expenditure ~~accepted or substituted~~ determined by the *AER* for that year – see paragraph (b)(6); and
- (7) compensation for other risks - see paragraph (b)(7).

[6A.1.1]

(b) **Details about the building blocks**

For the purposes of paragraph (a):

- (1) for indexation of the regulatory asset base:

- (i) the regulatory asset base is calculated in accordance with clause 6A.6.1 and schedule 6A.2; and
 - (ii) the building block comprises a negative adjustment equal to the amount referred to in clause S6A.2.4(c)(4) for that year;
- (2) the return on capital is calculated in accordance with clause 6A.6.2;
 - (3) the depreciation is calculated in accordance with clause 6A.6.3;
 - (4) the estimated cost of corporate income tax is determined in accordance with clause 6A.6.4;
 - (5) the revenue increments or decrements are those that arise as a result of the operation of the applicable *efficiency benefit sharing scheme*, as referred to in clause 6A.6.5;
 - (6) the forecast operating expenditure is ~~accepted~~ ~~or substituted~~ determined by the AER in accordance with clause 6A.6.6(c); ~~or~~ clause 6A.6.6(c1) ~~or clause 6A.13.2(b)(3) and (5)~~ (as the case may be); and [6A.1.1] [6A.36.2]
 - (7) the compensation for other risks is such amounts as the AER determines are necessary for that year to compensate a *Transmission Network Service Provider* for risks that are not otherwise compensated for in the return on capital, including the risk referred to in clause S6A.2.3(b) of schedule 6A.2.

6A.6 Matters relevant to the making of revenue determinations

...

6A.6.2 Return on capital

Calculation of return on capital

- (a) The return on capital for each *regulatory year* must be calculated by applying a rate of return for the relevant *Transmission Network Service Provider* for that *regulatory control period* (calculated in accordance with this clause 6A.6.2) to the value of the regulatory asset base for the relevant *transmission system* as at the beginning of that *regulatory year* (as established in accordance with clause 6A.6.1 and schedule 6A.2).

Weighted average cost of capital

- (b) The rate of return for a *Transmission Network Service Provider* for a *regulatory control period* is the cost of capital as measured by the return required by investors in a commercial enterprise with a similar nature and degree of non-diversifiable risk as that faced by the *transmission* business of the provider and, ~~subject to any revised values, methodologies and levels arising from a review under paragraphs (f)–(j)~~, must be calculated ~~as a~~

~~nominal post tax weighted average cost of capital (WACC) in accordance with the following formula:~~ [6A.23]

(1) as a nominal vanilla weighted average cost of capital (WACC) in accordance with the following formula: [6A.23]

$$WACC = k_e \frac{E}{V} + k_d \frac{D}{V}$$

where:

k_e is the return on equity (determined using the Capital Asset Pricing Model) and is calculated as:

$$r_f + \beta_e \times \text{MRP}$$

where:

r_f is the nominal risk free rate for the *regulatory control period* ~~determined in accordance with paragraph (e);~~ [6A.24.8]

β_e is the equity beta, ~~which is deemed to be 1.0;~~ and [6A.25]

MRP is the market risk premium, ~~which is deemed to be 6.0%;~~ [6A.25]

k_d is the return on debt and is calculated as:

$$r_f + \text{DRP}$$

where:

DRP is the debt risk premium for the *regulatory control period* ~~determined in accordance with paragraph (e);~~ [6A.24.8]

E/V is the market value of equity as a proportion of the market value of equity and debt, which is $1 - D/V$; and

D/V is the market value of debt as a proportion of the market value of equity and debt, ~~which is deemed to be 0.6;~~ and [6A.23] [6A.25]

(2) in accordance with the *statement on the cost of capital*. [6A.23]

~~Meaning of nominal risk free rate~~ [6A.24]

~~(e) The nominal risk free rate for a *regulatory control period* is the rate determined for that *regulatory control period* by the AER on a moving average basis from the annualised yield on Commonwealth Government bonds with a maturity of 10 years using:~~ [6A.24]

~~(1) the indicative mid rates published by the Reserve Bank of Australia; and~~ [6A.24]

~~(2) a period of time which is either:~~ [6A.24]

~~(i) a period ('the **agreed period**') proposed by the relevant *Transmission Network Service Provider*, and agreed by the *AER* (such agreement is not to be unreasonably withheld); or~~ [6A.24]

~~(ii) a period specified by the *AER*, and notified to the provider prior to the commencement of that period, if the period proposed by the provider is not agreed by the *AER* under subparagraph (i);~~ [6A.24]

~~and, for the purposes of subparagraph (i):~~ [6A.24]

~~(iii) the start date and end date for the agreed period may be kept confidential, but only until the expiration of the agreed period; and~~ [6A.24]

~~(iv) the *AER* must notify the *Transmission Network Service Provider* whether or not it agrees with the proposed period within 30 *business days* of the date of submission of the *Revenue Proposal* under clause 6A.10.1(a).~~ [6A.24]

~~(d) If there are no Commonwealth Government bonds with a maturity of 10 years on any day in the period referred to in paragraph (c)(2), the *AER* must determine the nominal risk free rate for the *regulatory control period* by interpolating on a straight line basis from the two Commonwealth Government bonds closest to the 10 year term and which also straddle the 10 year expiry date.~~ [6A.24]

Meaning of debt risk premium [6A.24]

~~(e) The debt risk premium for a *regulatory control period* is the premium determined for that *regulatory control period* by the *AER* as the margin between the annualised nominal risk free rate and the observed annualised Australian benchmark corporate bond rate for corporate bonds which have a BBB+ credit rating from Standard and Poors and a maturity equal to that used to derive the nominal risk free rate.~~ [6A.24]

Review of rate of return ~~parameters~~matters [6A.24.6]

~~(c)~~ (c) The *AER* must, carry out reviews of the matters referred to in paragraph (f) in accordance with this clause and ~~in accordance with the *transmission consultation procedures* and paragraphs (g)-(j), carry out reviews of the matters referred to in paragraph (i)~~ subject to the reference in rule 6A.20(e) to 80 *business days* being read as a reference to 100 *business days*. [6A.24.1] [6A.28]

~~(d)~~ (d) The *AER* must conclude the first review by 1 May 2009 and conclude subsequent reviews at intervals of five years with the first interval starting from 31 March 2009. [6A.24.1] [6A.28]

A review is to be concluded by 1 March 2014 and further reviews are to follow at intervals not exceeding, in any case, five years with the first interval starting from 1 March 2014. [6A.28]

~~(h)(e) The AER may, as a consequence of a review, adopt revised values, methodologies or credit rating levels, and, if it does so, it must use those revised values, methodologies and levels, but only for the purposes of a Revenue Proposal that is submitted to the AER under clause 6A.10.1(a) after the completion of the first review or after completion of the five yearly reviews (as the case may be).~~ [6A.23.1] [6A.24.1] [6A.24.2] [6A.27]

The AER must, in consequence of a review, issue a statement (a *statement on the cost of capital*) adopting values and methods for *Transmission Network Service Providers* or for specified classes of *Transmission Network Service Providers*. [6A.23.1]

~~(i)(f) The AER may only review:~~ [6A.24.1] [6A.24.4]

~~(1) — the values of and methodologies used to calculate:~~ [6A.24.4]

~~(i) — the nominal risk free rate;~~ [6A.24.4]

~~(ii) — the equity beta;~~ [6A.24.4]

~~(iii) — the market risk premium;~~ [6A.24.4]

~~(iv) — the maturity period and bond rates referred to in paragraph (d);
and~~ [6A.24.3] [6A.24.4]

~~(v) — the ratio of the market value of debt to the market value of
equity and debt;~~ [6A.24.4]

~~as set out in this clause 6A.6.2 or as subsequently revised under
paragraph (h); and~~ [6A.23.2] [6A.24.4]

~~(2) — the credit rating level as referred to in paragraph (e) or as subsequently
revised under paragraph (h).~~ [6A.24.2] [6A.24.4]

The following matters (and the method of their calculation) may form the
subject of a review: [6A.24.4]

(1) the nominal risk free rate referred to in subparagraph (b)(1); [6A.24.4]

(2) the equity beta referred to in subparagraph (b)(1); [6A.24.4]

(3) the market risk premium referred to in subparagraph (b)(1); [6A.24.4]

(4) the debt risk premium referred to in subparagraph (b)(1); [6A.24.4]

(5) the ratio of the value of debt to the value of equity referred to in
subparagraph (b)(1); and [6A.24.4]

(6) the assumed utilisation of imputation credits referred to in clause
6A.6.4. [6A.24.4]

~~(j)(g) In undertaking a review under this clause 6A.6.2 and under clause
6A.6.4(b), the AER must have regard to:~~ [6A.24.1]

- (1) the need for the rate of return calculated for the purposes of paragraph (b) to be a forward looking rate of return that is commensurate with prevailing conditions in the market for funds and the risk involved in providing *prescribed transmission services*;
- (2) the need for the return on debt to reflect the current cost of borrowings for comparable debt;
- (3) the need for the ~~credit rating levels or~~ values attributable to, or the ~~methodologies used to calculate~~ methods of calculating, the ~~parameters~~ matters referred to in paragraphs ~~(i)(1)(ii), (iv), (v) and (i)(2)~~ (f) that vary according to the efficiency of the *Transmission Network Service Provider* to be based on a benchmark efficient *Transmission Network Service Provider*; ~~and~~ [6A.24.2] [6A.24.5] [6A.24.6] [6A.24.7]
- (4) ~~where the credit rating levels or the values that are attributable to, or the methodologies used to calculate, the parameters referred to in paragraph (i) cannot be determined with certainty:~~ [6A.24.2] [6A.26]
 - ~~(i) the need to achieve an outcome that is consistent with the *national electricity objective*; and~~ [6A.26]
 - ~~(ii) the need for persuasive evidence before adopting a credit rating level or a value for, or a methodology used to calculate, that parameter that differs from the credit rating level, value or methodology that has previously been adopted for it.~~ [6A.26]
- (5) the previously adopted values for or methods of calculating the matters referred to in paragraph (f). [6A.26]
- (h) A statement on the cost of capital applies only for the purposes of a *Revenue Proposal* submitted to the AER after publication of the *statement on the cost of capital*. [6A.27]
- (i) A revenue determination to which a *statement on the cost of capital* applies must be consistent with the statement. [6A.27]

6A.6.3 Depreciation

- (a) The depreciation for each *regulatory year*:
 - (1) must be calculated on the value of the assets as included in the regulatory asset base, as at the beginning of that *regulatory year*, for the relevant *transmission system*; and
 - (2) must be calculated:
 - (i) providing such depreciation schedules conform with the requirements set out in paragraph (b), using the depreciation schedules for each asset or category of assets that are nominated in the relevant *Transmission Network Service Provider's Revenue Proposal*; or

- (ii) to the extent the depreciation schedules nominated in the provider's Revenue Proposal do not so conform, using the depreciation schedules determined for that purpose by the AER in its final decision on the provider's Revenue Proposal.
- (b) The depreciation schedules referred to in paragraph (a) must conform to the following requirements:
- (1) except as provided in paragraph (c), the schedules must depreciate using a profile that reflects the nature of the assets or category of assets over the economic life of that asset or category of assets;
 - (2) the sum of the real value of the depreciation that is attributable to any asset or category of assets over the economic life of that asset or category of assets (such real value being calculated as at the time the value of that asset or category of assets was first included in the regulatory asset base for the relevant *transmission system*) must be equivalent to the value at which that asset or category of assets was first included in the regulatory asset base for the relevant *transmission system*; and
 - (3) the economic life of the relevant assets and the depreciation methodologies and rates underpinning the calculation of ~~actual~~ depreciation for a given *regulatory control period* must be consistent with those determined for the same assets on a prospective basis in the *transmission determination* for that period.
- (c) To the extent that:
- (1) an asset (or group of assets) the value of which forms part of the regulatory asset base for a *transmission system* is dedicated to one *Transmission Network User* (not being a *Distribution Network Service Provider*) or a small group of *Transmission Network Users*; and
 - (2) the value of the assets (or group of assets), as included in the value of that regulatory asset base as at the beginning of the first *regulatory year* of the current *regulatory control period*, exceeds the *indexed amount*, as at the commencement of that *regulatory control period*, of \$20 million,

[6A.30]

that asset (or group of assets) must be depreciated on a straight line basis over the life at which that asset (or group of assets) was first included in the regulatory asset base for that *transmission system*.

6A.6.4 Estimated cost of corporate income tax

- (a) The estimated cost of corporate income tax of a *Transmission Network Service Provider* for each *regulatory year* (ETC_t) must be calculated in accordance with the following formula:

$$ETC_t = (ETI_t \times r_t) (1 - \gamma)$$

where:

ETI_t is an estimate of the taxable income for that *regulatory year* that would be earned by a benchmark efficient entity as a result of the provision of *prescribed transmission services* if such an entity, rather than the *Transmission Network Service Provider*, operated the business of the *Transmission Network Service Provider*, such estimate being determined in accordance with the *post-tax revenue model*;

r_t is the expected statutory income tax rate for that *regulatory year* as determined by the *AER*; and

γ is the assumed utilisation of imputation credits, ~~which is deemed to be 0.5.~~

[6A.25]

For these purposes:

- (1) the cost of debt must be based on that of a benchmark efficient *Transmission Network Service Provider*; and
- (2) the estimate must take into account the estimated depreciation for that *regulatory year* for tax purposes, for a benchmark efficient *Transmission Network Service Provider*, of assets where the value of those assets is included in the regulatory asset base for the relevant *transmission system* for that *regulatory year*.

~~(b) The *AER* must, in accordance with the *transmission consultation procedures* and clause 6A.6.2(j), carry out reviews of the matters referred to in paragraph (d).~~

[6A.24.9] [6A.28]

~~(c) The *AER* must conclude the first review by 1 May 2009 and conclude subsequent reviews at intervals of five years with the first interval starting from 31 March 2009.~~

[6A.28]

~~(d) The *AER* may only review the value of and methodology used to calculate the assumed utilisation of imputation credits as referred to in paragraph (a) (or as subsequently revised under this clause 6A.6.4).~~

[6A.24.4]

~~(e) Where the value of the assumed utilisation of imputation credits referred to in paragraph (d) cannot be determined with certainty, the *AER* must have regard to:~~

[6A.26]

~~(1) the need to achieve an outcome that is consistent with the *national electricity objective*; and~~

[6A.26]

~~(2) the need for persuasive evidence before adopting a value that differs from the value that has previously been adopted for it.~~

[6A.26]

~~(f) If, as a consequence of a review, the *AER* decides to adopt a revised value or methodology, it must use that revised value or methodology, but only for the purposes of a *Revenue Proposal* that is submitted to the *AER* under clause 6A.10.1(a) after the completion of the first review or after completion of the five yearly reviews (as the case may be).~~

[6A.27]

6A.6.5 Efficiency benefit sharing scheme

(a) The *AER* must, in accordance with the *transmission consultation procedures*, develop and *publish* a scheme (an *efficiency benefit sharing scheme*) that provides for a fair sharing between *Transmission Network Service Providers* and *Transmission Network Users* of:

- (1) the efficiency gains derived from the operating expenditure of *Transmission Network Service Providers* for a *regulatory control period* being less than; and
- (2) the efficiency losses derived from the operating expenditure of *Transmission Network Service Providers* for a *regulatory control period* being more than,

the forecast operating expenditure ~~accepted or substituted~~ determined by the *AER* for that *regulatory control period* in accordance with clause 6A.6.6(c); ~~or clause 6A.6.6(c1) or clause 6A.13.2(b)(3) and (5)~~ (as the case may be). **[6A.1.1] [6A.36.2]**

(b) In developing and implementing an *efficiency benefit sharing scheme*, the *AER* must have regard to:

- (1) the need to provide *Transmission Network Service Providers* with a continuous incentive (that is equal in each year of any *regulatory control period*) to reduce operating expenditure;
- (2) the desirability of both rewarding *Transmission Network Service Providers* for efficiency gains and penalising *Transmission Network Service Providers* for efficiency losses; and
- (3) any incentives that *Transmission Network Service Providers* may have to inappropriately capitalise operating expenditure.

(c) At the same time as it *publishes* an *efficiency benefit sharing scheme* under this clause 6A.6.5, the *AER* must also *publish* parameters (the *efficiency benefit sharing scheme parameters*) for the scheme. For the avoidance of doubt, unless the *AER* provides otherwise in that scheme, such values may differ as between *Transmission Network Service Providers* and over time.

(d) The *AER* must set out in each *efficiency benefit sharing scheme* any requirements with which the values attributed to the *efficiency benefit sharing scheme parameters* must comply, but such requirements must not be inconsistent with those factors to which the *AER* must have regard under paragraph (b).

(e) The *AER* must develop and *publish* the first *efficiency benefit sharing scheme* by 28 September 2007, and there must be an *efficiency benefit sharing scheme* in force at all times after that date.

(f) The *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace an *efficiency benefit sharing scheme*, except that no such amendment or replacement may change the

application of the scheme to a *Transmission Network Service Provider* in respect of a *regulatory control period* that has commenced before, or that will commence within 15 months of, the amendment or replacement coming into operation.

- (g) Subject to paragraph (h) the *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the values to be attributed to the *efficiency benefit sharing scheme parameters*.
- (h) An amendment or replacement referred to in paragraph (g) must not change the values to be attributed to the *efficiency benefit sharing scheme parameters* where:
 - (1) those values must be included in information accompanying a *Revenue Proposal*; and
 - (2) the *Revenue Proposal* is required to be submitted under clause 6A.10.1(a) at a time that is within 2 months of the *publication* of the amended or replaced *efficiency benefit sharing scheme parameters*.

6A.6.6 Forecast operating expenditure

- (a) A *Revenue Proposal* must include the total forecast operating expenditure for the relevant *regulatory control period* which the *Transmission Network Service Provider* considers is required in order to achieve each of the following (the *operating expenditure objectives*):
 - (1) meet the expected demand for *prescribed transmission services* over that period;
 - (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *prescribed transmission services*;
 - (3) maintain the quality, reliability and security of supply of *prescribed transmission services*; and
 - (4) maintain the reliability, safety and security of the *transmission system* through the supply of *prescribed transmission services*.
- (b) The forecast of required operating expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* must:
 - (1) comply with the requirements of the *submission guidelines*;
 - (2) be for expenditure that is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the *Transmission Network Service Provider*; and
 - (3) include both:

- (i) the total of the forecast operating expenditure for the relevant *regulatory control period*; and
- (ii) the forecast of the operating expenditure for each *regulatory year* of the relevant *regulatory control period*.

(c) ~~The AER must accept the forecast of required operating expenditure of a Transmission Network Service Provider that is included in a Revenue Proposal if the AER is satisfied that the total of the forecast operating expenditure for the regulatory control period reasonably reflects:~~

[6A.1]

~~(1) the efficient costs of achieving the operating expenditure objectives;~~

[6A.1]

~~(2) the costs that a prudent operator in the circumstances of the relevant Transmission Network Service Provider would require to achieve the operating expenditure objectives; and~~

[6A.1]

~~(3) a realistic expectation of the demand forecast and cost inputs required to achieve the operating expenditure objectives.~~

[6A.1]

~~(the operating expenditure criteria).~~

[6A.1]

The AER must determine the total of the forecast of required operating expenditure of a Transmission Network Service Provider for the regulatory control period, and the forecast of the required operating expenditure for each regulatory year of the regulatory control period, that the AER considers would meet the efficient costs that a prudent Transmission Network Service Provider would require to achieve the operating expenditure objectives.

[6A.1]

(c1) If:

- (1) a Transmission Network Service Provider made network support payments in accordance with a relevant agreement for network support services in the previous *regulatory control period*; and
- (2) the Transmission Network Service Provider must continue to make network support payments to fulfil obligations under the relevant agreement for network support services in the relevant *regulatory control period*,

the AER must accept the forecast of required operating expenditure of the Transmission Network Service Provider included in a Revenue Proposal in relation to the remainder of costs required to meet obligations under the relevant agreement for network support services in the relevant *regulatory control period*.

~~(d) If the AER is not satisfied as referred to in paragraph (c), it must not accept the forecast of required operating expenditure of a Transmission Network Service Provider that is included in a Revenue Proposal.~~

[6A.1]

- (e)(d) ~~In deciding whether or not the AER is satisfied~~ In determining the forecasts of required operating expenditure as referred to in paragraph (c), the AER must have regard to the following (the *operating expenditure factors*): [6A.2]
- (1) ~~the information included in or accompanying the Revenue Proposal;~~ [6A.3]
- (2) ~~submissions received in the course of consulting on the Revenue Proposal;~~ [6A.3]
- (3) ~~such analysis as is undertaken by or for the AER and is published prior to or as part of the draft decision of the AER on the Revenue Proposal under rule 6A.12 or the final decision of the AER on the Revenue Proposal under rule 6A.13 (as the case may be);~~ [6A.3]
- (4)(1) benchmark operating expenditure that would be incurred by an efficient *Transmission Network Service Provider* over the *regulatory control period*; [6A.3.1]
- (5)(2) the actual and expected operating expenditure of the provider during any preceding *regulatory control periods*; [6A.3.1]
- (6)(3) the relative prices of operating and capital inputs; [6A.3.1]
- (7)(4) the substitution possibilities between operating and capital expenditure; [6A.3.1]
- (8)(5) whether the ~~total labour costs included in the capital and~~ operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the applicable *service target performance incentive scheme* ~~in respect of the regulatory control period, efficiency benefit sharing scheme or other incentive scheme or schemes developed and published under clause 6A.7.5;~~ [6A.3.1] [6A.4] [6A.29.2]
- (9)(6) the extent to which the forecast of required operating expenditure of the *Transmission Network Service Provider* is referable to arrangements with a person other than the provider that, in the opinion of the AER, do not reflect arm's length terms; [6A.3.1]
- (10)(7) whether the forecast of required operating expenditure includes amounts relating to a project that should more appropriately be included as a *contingent project* under clause ~~6A.8.1(b)~~ 6A.8.1(e); [6A.3.1] [6A.16.1]
- (11)(8) the most recent *NTNDP* and any submissions made by *AEMO*, in accordance with the *Rules*, on the forecast of the *Transmission Network Service Provider's* required operating expenditure. [6A.3.1]
- (12)(9) the extent to which ~~the Transmission Network Service Provider has considered and made provision for~~ any efficient and prudent non network alternatives may impact the forecast of required operating expenditure; and [6A.5] [6A.3.1]

~~(13)~~(10) any relevant *project assessment conclusions report* required under clause 5.6.6.; [6A.3.1]

(11) a realistic expectation of the demand forecast and cost inputs; [6A.6]

(12) any other factors the *AER* considers relevant. [6A.7]

~~(f) If, in its final decision on the *Revenue Proposal* under rule 6A.13, the *AER* does not accept the total of the forecast required operating expenditure for the *regulatory control period* under paragraph (d), then the *AER* must, in accordance with clause 6A.13.2(b), use a substituted forecast of required operating expenditure.~~ [6A.1]

6A.6.7 Forecast capital expenditure

- (a) A *Revenue Proposal* must include the total forecast capital expenditure for the relevant *regulatory control period* which the *Transmission Network Service Provider* considers is required in order to achieve each of the following (the *capital expenditure objectives*):
- (1) meet the expected demand for *prescribed transmission services* over that period;
 - (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *prescribed transmission services*;
 - (3) maintain the quality, reliability and security of supply of *prescribed transmission services*; and
 - (4) maintain the reliability, safety and security of the *transmission system* through the supply of *prescribed transmission services*.
- (b) The forecast of required capital expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* must:
- (1) comply with the requirements of the *submission guidelines*;
 - (2) be for expenditure that is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the *Transmission Network Service Provider*;
 - (3) include both:
 - (i) the total of the forecast capital expenditure for the relevant *regulatory control period*; and
 - (ii) the forecast of the capital expenditure for each *regulatory year* of the relevant *regulatory control period*; and
 - (4) identify any forecast capital expenditure:

- (i) that is for a *reliability augmentation*; or
 - (ii) that is for an option that has satisfied the *regulatory test* or *regulatory investment test for transmission* (as the case may be).
- (c) ~~The AER must accept the forecast of required capital expenditure of a Transmission Network Service Provider that is included in a Revenue Proposal if the AER is satisfied that the total of the forecast capital expenditure for the regulatory control period reasonably reflects:~~ [6A.8]
- ~~(1) the efficient costs of achieving the capital expenditure objectives;~~ [6A.8]
 - ~~(2) the costs that a prudent operator in the circumstances of the relevant Transmission Network Service Provider would require to achieve the capital expenditure objectives; and~~ [6A.8]
 - ~~(3) a realistic expectation of the demand forecast and cost inputs required to achieve the capital expenditure objectives.~~ [6A.8]
- ~~(the capital expenditure criteria).~~ [6A.8]
- The AER must determine the total of the forecast of required capital expenditure of a Transmission Network Service Provider for the regulatory control period, and the forecast of the required capital expenditure for each regulatory year of the regulatory control period, that the AER considers would meet the efficient costs that a prudent Transmission Network Service Provider would require to achieve the capital expenditure objectives. [6A.8]
- ~~(d) If the AER is not satisfied as referred to in paragraph (c), it must not accept the forecast of required capital expenditure of a Transmission Network Service Provider.~~ [6A.8]
- ~~(e)~~(d) In determining the forecasts of required capital expenditure as referred to in paragraph (c), the AER may, as it considers appropriate, must have regard to the following (the *capital expenditure factors*): [6A.9]
- ~~(1) the information included in or accompanying the Revenue Proposal;~~ [6A.10]
 - ~~(2) submissions received in the course of consulting on the Revenue Proposal;~~ [6A.10]
 - ~~(3) such analysis as is undertaken by or for the AER and is published prior to or as part of the draft decision of the AER on the Revenue Proposal under rule 6A.12 or the final decision of the AER on the Revenue Proposal under rule 6A.13 (as the case may be);~~ [6A.10]
- ~~(4)~~(1) benchmark capital expenditure that would be incurred by an efficient Transmission Network Service Provider over the *regulatory control period*; [6A.10.2]

- ~~(5)~~(2) the actual and expected capital expenditure of the *Transmission Network Service Provider* during any preceding *regulatory control periods*; [6A.10.2]
- ~~(6)~~(3) the relative prices of operating and capital inputs; [6A.10.2]
- ~~(7)~~(4) the substitution possibilities between operating and capital expenditure; [6A.10.2]
- ~~(8)~~(5) whether ~~the total labour costs included in~~ the capital ~~and operating~~ expenditure forecasts for the *regulatory control period* ~~are~~is consistent with the incentives provided by the applicable *service target performance incentive scheme* ~~in respect of the regulatory control period, efficiency benefit sharing scheme or other incentive scheme or schemes developed and published under clause 6A.7.5~~; [6A.10.2] [6A.11] [6A.29.2]
- ~~(9)~~(6) the extent to which the forecast of required capital expenditure of the *Transmission Network Service Provider* is referable to arrangements with a person other than the provider that, in the opinion of the *AER*, do not reflect arm's length terms; [6A.10.2]
- ~~(10)~~(7) whether the forecast of required capital expenditure includes amounts relating to a project that should more appropriately be included as a *contingent project* under clause ~~6A.8.1(b)~~6A.8.1(e); [6A.10.2] [6A.16.1]
- ~~(11)~~(8) the most recent *NTNDP* and any submissions made by *AEMO*, in accordance with the *Rules*, on the forecast of the *Transmission Network Service Provider's* required capital expenditure; [6A.10.2]
- ~~(12)~~(9) the extent to which ~~the Transmission Network Service Provider has considered and made provision for~~any efficient and prudent non-network alternatives can displace parts of the forecast of required capital expenditure; ~~and~~ [6A.12] [6A.10.2]
- ~~(13)~~(10) any relevant *project assessment conclusions report* required under clause 5.6.6; [6A.10.2]
- (11) a realistic expectation of the demand forecast and cost inputs; [6A.13]
- (12) any other factors the AER considers relevant. [6A.14]
- ~~(f) — If, in its final decision on the Revenue Proposal made under rule 6A.13, the AER does not accept the total of the forecast of required capital expenditure for the regulatory control period under paragraph (d), then the AER must, in accordance with clause 6A.13.2(b), use a substitute forecast of required capital expenditure.~~ [6A.8]

Forecast capital expenditure and contingent projects

- ~~(g)~~(e) Paragraphs ~~(h)–(k)~~(f)–(i) apply where: [6A.10.2]

(1) in a *regulatory control period* (the **first regulatory control period**) the AER determines under clause ~~6A.8.2(e)(1)(iii)~~6A.8.2(e)(1)(iv) that the likely completion date for a *contingent project* is a date which occurs in the immediately following *regulatory control period* (the **second regulatory control period**); and [6A.18.1]

(2) there is an unspent amount of capital expenditure for that *contingent project* under paragraph ~~(h)~~(f). [6A.10.2]

~~(h)~~(f) A *Transmission Network Service Provider's Revenue Proposal* for the second *regulatory control period*, must include in the forecast of required capital expenditure referred to in paragraph (a) an amount of any unspent capital expenditure for each *contingent project* as described in paragraph ~~(g)(2)~~(e)(2), that equals the difference (if any) between: [6A.10.2]

(1) the total capital expenditure for that *contingent project*, as determined by the AER in the first *regulatory control period* under clause ~~6A.8.2(e)(1)(ii)~~6A.8.2(e)(1)(iii); and [6A.18.1]

(2) the total of the capital expenditure actually incurred (or estimated capital expenditure for any part of the first *regulatory control period* for which actual capital expenditure is not available) in the first *regulatory control period* for that *contingent project*.

~~(i)~~(g) The AER must include in any forecast capital expenditure for the second *regulatory control period* which ~~is accepted in accordance with paragraph (e), estimated~~the AER determined in accordance with clause ~~6A.14.1(2)(ii) or substituted in accordance with clause 6A.13.2(b)(4) and (5) (as the case may be)~~6A.14.1(iii), the amount of any unspent capital expenditure calculated in accordance with paragraph ~~(h)~~(f). [6A.10.2] [6A.8.1] [6A.36.2]

~~(i)~~(h) Without limiting the requirement in paragraph ~~(i)~~(g), in ~~deciding whether or not to accept~~determining the forecast of required capital expenditure of a *Transmission Network Service Provider* for the second *regulatory control period* in accordance with this clause 6A.6.7, the AER must not: [6A.8.1] [6A.10.2]

(1) assess the reasonableness of the amount of unspent capital expenditure for a *contingent project* referred to in paragraph ~~(h)~~(f) or the remaining period to which the *contingent project* applies; [6A.10.2]

(2) assess the reasonableness of the timing of the unspent capital expenditure within the remaining period for a *contingent project* referred to in paragraph ~~(h)~~(f) except as part of ~~the assessment of~~determining the total forecast capital expenditure under paragraph (c); or [6A.8.1] [6A.10.2]

(3) take into account any amount which represents for a *contingent project* referred to in paragraph ~~(h)~~(f) the difference between: [6A.10.2]

(i) the amount representing the sum of the forecast capital expenditure for that *contingent project* for each year of the

immediately preceding *regulatory control period* referred to in clause ~~6A.8.2(e)(1)(i)~~6A.8.2(e)(1)(ii); and

[6A.18.1]

- (ii) the total capital expenditure actually incurred (or estimated capital expenditure for any part of the preceding *regulatory control period* for which actual capital expenditure is not available) in the immediately preceding *regulatory control period* for that *contingent project*.

~~(i)~~(i) A *Revenue Proposal* in respect of the second *regulatory control period* must not include in the forecast of required capital expenditure referred to in paragraph (a) any capital expenditure for a *contingent project* for the first *regulatory control period*:

[6A.10.2]

- (1) to the extent that the capital expenditure was included in the amount of capital expenditure for that *contingent project* as determined in the first *regulatory control period* under clause ~~6A.8.2(e)(1)(i)~~6A.8.2(e)(1)(ii); and
- (2) the capital expenditure actually incurred (or estimated capital expenditure for any part of the first *regulatory control period* for which actual capital expenditure is not available) in the first *regulatory control period* for that *contingent project* exceeded the capital expenditure referred to in subparagraph (1).

[6A.18.1]

...

6A.7 Matters relevant to the adjustment of revenue cap after making of revenue determination

6A.7.1 Reopening of revenue determination for capital expenditure

- (a) Subject to paragraph (b), a *Transmission Network Service Provider* may, during a *regulatory control period*, apply to the AER to revoke and substitute a *revenue determination* that applies to it where:
 - (1) an event that is beyond the reasonable control of the provider has occurred during that *regulatory control period* and the occurrence of that event during that period (or of an event of a similar kind) could not reasonably have been foreseen ~~by the provider~~ at the time of the making of the *revenue determination* ('the event');
 - (2) no forecast capital expenditure was ~~accepted or substituted~~determined by the AER for that period under clause 6A.6.7(c) ~~or clause 6A.13.2(b)(4) and (5) (as the case may be)~~ in relation to the event that has occurred;
 - (3) the provider proposes to undertake capital expenditure to rectify the adverse consequences of the event;

[6A.8.2]

[6A.8.1] [6A.36.2]

- (4) the total of the capital expenditure required during the *regulatory control period* to rectify the adverse consequences of the event:
- (i) exceeds 5% of the value of the regulatory asset base for the relevant *Transmission Network Service Provider* for the first year of the relevant *regulatory control period*;
 - (ii) is such that, if undertaken, it is reasonably likely (in the absence of any other reduction in capital expenditure) to result in the total actual capital expenditure for that *regulatory control period* exceeding the total of the forecast capital expenditure for that *regulatory control period* as ~~accepted or substituted~~ determined by the AER in accordance with clause 6A.6.7(c) ~~or clauses 6A.13.2(b)(4) and (5) (as the case may be)~~; and [6A.8.1] [6A.10.2]
- (5) the provider can demonstrate that it is not able to reduce capital expenditure in other areas to avoid the consequence referred to in clause 6A.7.1(a)(4)(ii) without materially adversely affecting the *reliability* and security of the relevant *transmission system*;
- (6) a failure to rectify the adverse consequences of the event would be likely to materially adversely affect the *reliability* and security of the relevant *transmission system*; and
- (7) the event is not a *pass through event* or a *trigger event associated with a contingent project*. [6A.20]

In this paragraph (a), a reference to an event includes a series of events or a state of affairs, which may include a greater than anticipated increase in demand.

- (b) An application referred to in paragraph (a) must not be made within 90 *business days* prior to the end of a *regulatory year*.
- (c) Following its receipt of an application made in accordance with paragraphs (a) and (b), the AER must:
 - (1) consult with the *Transmission Network Service Provider* and such other persons as it considers appropriate in relation to the application; and
 - (2) make its decision on the application within ~~60~~40 *business days* of that application being made. [6A.32.1]
- (d) The AER must, and must only, revoke a *revenue determination* following an application made in accordance with paragraphs (a) and (b) if the AER is satisfied of each of the matters referred to in paragraph (a).
- (e) If the AER revokes a *revenue determination* under paragraph (d), the AER must make a new *revenue determination* in substitution for the revoked determination to apply for the remainder of the *regulatory control period* for which the revoked determination was to apply.

- (f) The substituted *revenue determination* must only vary from the revoked *revenue determination* to the extent necessary:
- (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of such additional capital expenditure ~~as that the AER determines is appropriate~~ considers would meet the costs a prudent Transmission Network Service Provider would require to achieve one or more of the capital expenditure objectives, having regard to, as it considers appropriate, the capital expenditure factors (in which case the amount of that adjustment will be taken to be ~~accepted~~ determined by the AER under clause 6A.6.7(c)); and
 - (2) to reflect the effect of any resultant increase in forecast capital expenditure on:
 - (i) the forecast operating expenditure for the remainder of the *regulatory control period*;
 - (ii) the *maximum allowed revenue* for each *regulatory year* in the remainder of the *regulatory control period*; and
 - (iii) the X factor for each of the remaining *regulatory years* of the *regulatory control period*.
- (g) If the AER revokes and substitutes a *revenue determination* under paragraph (e), that revocation and substitution must take effect from the commencement of the next *regulatory year*.

[6A.8.1]

Extension of time limits

[6A.32]

(h) The AER may extend the time limit fixed in subparagraph (c)(2) by up to a further 60 business days if:

[6A.32]

(1) making the decision involves questions of unusual complexity or difficulty; or

[6A.32]

(2) the AER requires information further to that specified in the Transmission Network Service Provider's application submitted under paragraph (a).

[6A.32]

...

6A.7.3 Cost pass through

- (a) If a *positive change event* occurs, a *Transmission Network Service Provider* may seek the approval of the AER to pass through to *Transmission Network Users* a *positive pass through amount*.
- (b) If a *negative change event* occurs, the AER may require the *Transmission Network Service Provider* to pass through to *Transmission Network Users* a

negative pass through amount as determined by the AER under paragraph (g).

Positive pass through

(c) To seek the approval of the AER to pass through a *positive pass through amount*, a *Transmission Network Service Provider* must submit to the AER, within 90 *business days* of the relevant *positive change event* occurring, a written statement which specifies:

- (1) the details of the *positive change event*;
- (2) the date on which the *positive change event* occurred;
- (3) the *eligible pass through amount* in respect of that *positive change event*;
- (4) the *positive pass through amount* the provider proposes in relation to the *positive change event*;
- (5) the amount of the *positive pass through amount* that the provider proposes should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*;
- (6) evidence:
 - (i) of the actual and likely increase in costs referred to in subparagraph (3); and
 - (ii) that such costs occur solely as a consequence of the *positive change event*; and
- (7) such other information as may be required pursuant to *information guidelines* in force under clause 6A.17.2.

(d) If the AER determines that a *positive change event* has occurred in respect of a statement under paragraph (c), the AER must determine:

- (1) the *approved pass through amount*; and
- (2) the amount of that *approved pass through amount* that should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*,

taking into account the matters referred to in paragraph (j).

(e) If the AER does not make the determinations referred to in paragraph (d) within ~~60~~40 *business days* from the date it receives the *Transmission Network Service Provider's* statement and accompanying evidence under paragraph (c), then, on the expiry of that period, the AER is taken to have determined that:

[6A.31.1]

- (1) the *positive pass through amount* as proposed in the provider's statement under paragraph (c) is the *approved pass through amount* in respect of that *positive change event*; and
- (2) the amount of that *positive pass through amount* that the provider proposes in its statement under paragraph (c) should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*, is the amount that should be so passed through in each such *regulatory year*.

Negative pass through

- (f) A *Transmission Network Service Provider* must submit to the *AER*, within 60 *business days* of becoming aware of the occurrence of a *negative change event* for the provider, a written statement which specifies:
 - (1) the details of the *negative change event* concerned;
 - (2) the date the *negative change event* occurred;
 - (3) the costs in the provision of *prescribed transmission services* that the provider has saved and is likely to save until the end of the *regulatory control period* as a result of the *negative change event*;
 - (4) the aggregate amount of those saved costs that the provider proposes should be passed through to *Transmission Network Users*;
 - (5) the amount of the costs referred to in subparagraph (4) the provider proposes should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*; and
 - (6) such other information as may be required pursuant to *information guidelines* in force under clause 6A.17.2.
- (g) If a *negative change event* occurs (whether or not the occurrence of that *negative change event* is notified by the provider to the *AER* under paragraph (f)) and the *AER* determines to impose a requirement on the provider in relation to that *negative change event* as described in paragraph (b), the *AER* must determine:
 - (1) the *required pass through amount*; and
 - (2) taking into account the matters referred to in paragraph (j):
 - (i) how much of that *required pass through amount* should be passed through to *Transmission Network Users* (the *negative pass through amount*); and
 - (ii) the amount of that *negative pass through amount* that should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*.

- (h) A *Transmission Network Service Provider* must provide the *AER* with such information as the *AER* requires for the purpose of making a determination under paragraph (g) within the time specified by the *AER* in a notice provided to the provider by the *AER* for that purpose.

Consultation

- (i) Before making a determination under paragraph (d) or (g), the *AER* may consult with the relevant *Transmission Network Service Provider* and such other persons as the *AER* considers appropriate, on any matters arising out of the relevant *pass through event* as the *AER* considers appropriate.

Relevant factors

- (j) In making a determination under paragraph (d) or (g) in respect of a *Transmission Network Service Provider*, the *AER* must take into account:
- (1) the matters and proposals set out in any statement given to the *AER* by the provider under paragraphs (c) or (f) (as the case may be);
 - (2) in the case of a *positive change event*, the increase in costs in the provision of *prescribed transmission services* that the provider has incurred and is likely to incur until the end of the *regulatory control period* as a result of the *positive change event*;
 - (3) in the case of a *positive change event*, the efficiency of the provider's decisions and actions in relation to the risk of the *positive change event*, including whether the provider has failed to take any action that could reasonably be taken to reduce the magnitude of the *eligible pass through amount* in respect of that *positive change event* and whether the provider has taken or omitted to take any action where such action or omission has increased the magnitude of the amount in respect of that *positive change event*;
 - (4) the time cost of money based on the *weighted average cost of capital* for the provider for the relevant *regulatory control period*;
 - (5) the need to ensure that the provider only recovers any actual or likely increment in costs under this paragraph (j) to the extent that such increment is solely as a consequence of a *pass through event*;
 - (6) in the case of a *tax change event*, any change in the way another *tax* is calculated, or the removal or imposition of another *tax*, which, in the *AER's* opinion, is complementary to the *tax change event* concerned; and
 - (7) any other factors the *AER* considers relevant.

Extension of time limits

- (k) The *AER* must, by written notice to a *Transmission Network Service Provider*, extend a time limit fixed in paragraphs (c) or (f) if the *AER* is

[6A.31]

satisfied that the difficulty of assessing or quantifying the effect of the relevant *pass through event* justifies the extension. [6A.31]

(l) The AER may extend the time limit fixed in paragraph (e) by up to a further 60 *business days* if: [6A.31]

(1) making the determination involves questions of unusual complexity or difficulty; or [6A.31]

(2) the AER requires information further to that specified in the *Transmission Network Service Provider's* written statement submitted under paragraph (c). [6A.31]

...

6A.7.5 Other incentive schemes [6A.29]

(a) The AER may, in accordance with the *transmission consultation procedures*, develop and *publish* an incentive scheme or schemes other than the *service target performance incentive scheme* and the *efficiency benefit sharing scheme* to apply to *Transmission Network Service Providers* where the AER considers that there are benefits to end users or customers arising from applying the incentive scheme or schemes to *Transmission Network Service Providers*. [6A.29]

(b) In developing and implementing an incentive scheme or schemes under this clause, the AER must have regard to: [6A.29]

(1) the possible effects of the scheme or schemes on the incentives for *Transmission Network Service Providers* to implement non-network alternatives; and [6A.29]

(2) the need to ensure that the incentives are sufficient to offset any financial incentives the *Transmission Network Service Provider* may have to reduce costs at the expense of service levels; and [6A.29]

(3) the need to ensure that benefits to consumers likely to result from the incentive scheme or schemes are sufficient to warrant any reward or penalty under the incentive scheme or schemes for *Transmission Network Service Providers*; and [6A.29]

(4) the willingness of the customer or end user to pay for improved performance in the delivery of services; and [6A.29]

(5) any other incentives available to the *Transmission Network Service Provider* under the *Rules* or under a relevant *revenue determination*. [6A.29]

(c) At the same time as it *publishes* an incentive scheme or schemes under this clause, the AER must also *publish*, if applicable, any parameters for the scheme. For the avoidance of doubt, the parameters may differ as between *Transmission Network Service Providers* and over time. [6A.29]

- (d) The AER must set out in the incentive scheme or schemes that is developed and published under this clause any requirements with which the values attributed to the parameters referred to in paragraph (c) must comply. [6A.29]
- (e) The AER may, from time to time and in accordance with the transmission consultation procedures, amend or replace any incentive scheme or schemes that is developed and published under this clause, except that no such amendment or replacement may change the application of the incentive scheme or schemes to a Transmission Network Service Provider in respect of a regulatory control period that has commenced before, or that will commence within 15 months of, the amendment or replacement coming into operation. [6A.29]
- (f) Subject to paragraph (g) the AER may, from time to time and in accordance with the transmission consultation procedures, amend or replace the values to be attributed to any parameters applicable to the incentive scheme or schemes. [6A.29]
- (g) An amendment or replacement referred to in paragraph (f) must not change the values to be attributed to any parameters applicable to the incentive scheme or schemes where: [6A.29]
- (1) those values must be included in information accompanying a Revenue Proposal; and [6A.29]
- (2) the Revenue Proposal is required to be submitted under clause 6A.10.1(a) at a time that is within 2 months of the publication of the amended or replaced parameters applicable to the incentive scheme or schemes. [6A.29]

6A.8 Contingent Projects

6A.8.1 Acceptance of a Contingent Project in a revenue determination

- (a) A Revenue Proposal may include proposed contingent capital expenditure, which the Transmission Network Service Provider considers is reasonably required for the purpose of undertaking a proposed contingent project.
- ~~(b) The AER must determine that a proposed contingent project is a contingent project if the AER is satisfied that:~~ [6A.16]
- ~~(1) the proposed contingent project is reasonably required to be undertaken in order to achieve any of the capital expenditure objectives;~~ [6A.16]
- ~~(2) the proposed contingent capital expenditure:~~ [6A.16]
- ~~(i) is not otherwise provided for (either in part or in whole) in the total of the forecast capital expenditure for the relevant regulatory control period which is accepted in accordance with~~

- ~~clause 6A.6.7(c) or substituted in accordance with clauses 6A.13.2(b)(4) and (5) (as the case may be);~~ [6A.16]
- ~~(ii) reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*, in the context of the *proposed contingent project* as described in the *Revenue Proposal*; and~~ [6A.16]
- ~~(iii) exceeds either \$10 million or 5% of the value of the *maximum allowed revenue* for the relevant *Transmission Network Service Provider* for the first year of the relevant *regulatory control period* whichever is the larger amount;~~ [6A.16]
- ~~(3) the *proposed contingent project* and the *proposed contingent capital expenditure*, as described or set out in the *Revenue Proposal*, and the information provided in relation to these matters, complies with the requirements of *submission guidelines* made under clause 6A.10.2; and~~ [6A.16]
- ~~(4) the *trigger events* in relation to the *proposed contingent project* which are proposed by the *Transmission Network Service Provider* in its *Revenue Proposal* are appropriate.~~ [6A.16]
- (b) The *proposed contingent capital expenditure* for each *proposed contingent project* must: [6A.16]
- (1) exceed the threshold set out in the *Transmission Contingent Project Guidelines*, or if the AER has not *published* such a threshold, either \$10 million or 5% of the value of the *maximum allowed revenue* for the relevant *Transmission Network Service Provider* for the first year of the relevant *regulatory control period* whichever is the larger amount; and [6A.16]
- (2) not be otherwise provided for (either in part or in whole) in the total forecast capital expenditure included in the *Revenue Proposal* as referred to in clause 6A.6.7(a). [6A.16]
- (c) The *trigger events* in relation to each *proposed contingent project* must be appropriate. [6A.16]
- (d) The *proposed contingent capital expenditure* for each *proposed contingent project* must comply with the requirements of the *submission guidelines* made under clause 6A.10.2. [6A.16]
- (e) The AER may identify any *contingent project*, which may include a *proposed contingent project* (if any), that: [6A.16]
- (1) meets the requirements of paragraphs (b), (c) and (d); [6A.16]
- (2) the AER considers a prudent *Transmission Network Service Provider* would be required to undertake if the associated *trigger event* occurs

during the regulatory control period to achieve one or more of the capital expenditure objectives; and

[6A.16]

(3) is not otherwise provided for (either in part or in whole) in the total of the forecast of required capital expenditure for the relevant regulatory control period which is determined by the AER in accordance with clause 6A.6.7(c).

[6A.16]

~~(f)~~(e) In determining whether a *trigger event* in relation to a *proposed contingent project* is appropriate for the purposes of ~~subparagraph (b)(4)~~ paragraph (c), the AER must have regard to the need for:

[6A.16.1]

(1) a *trigger event* to be reasonably specific and capable of objective verification;

(2) a *trigger event* to be a condition or event, which, if it occurs, makes the undertaking of the *proposed contingent project* reasonably necessary in order to achieve ~~any~~ one or more of the *capital expenditure objectives*;

[6A.16.2]

(3) a *trigger event* to be a condition or event that generates increased costs or categories of costs that relate to a specific location rather than a condition or event that affects the *transmission network* as a whole;

(4) a *trigger event* to be described in such terms that the occurrence of that event or condition is all that is required for ~~the revenue determination to be amended~~ a *Transmission Network Service Provider* to make an application to the AER under clause 6A.8.2; and

[6A.16.3]

(5) a *trigger event* to be an event or condition, the occurrence of which is probable during the *regulatory control period*, but the inclusion of capital expenditure in relation to it under clause 6A.6.7 is not appropriate because:

(i) it is not sufficiently certain that the event or condition will occur during the *regulatory control period* or if it may occur after that *regulatory control period* or not at all; or

(ii) subject to the requirement to satisfy ~~clause 6A.8.1(b)(2)(iii)~~ subparagraph (b)(1), the costs associated with the event or condition are not sufficiently certain.

[6A.16.1]

6A.8.2 Amendment of revenue determination for contingent project

(a) Subject to paragraph (b), a *Transmission Network Service Provider* may, during a *regulatory control period*, apply to the AER to amend a *revenue determination* that applies to that provider where a *trigger event* for a *contingent project* in relation to that *revenue determination* has occurred.

(b) An application referred to in paragraph (a):

- (1) must not be made within 90 *business days* prior to the end of a *regulatory year*;
- (2) subject to subparagraph (1), must be made as soon as practicable after the occurrence of the *trigger event*;
- (3) must contain the following information:
 - (i) an explanation that substantiates the occurrence of the *trigger event*;
 - (ii) a forecast of the total capital expenditure for the *contingent project*;
 - (iii) a forecast of the capital and incremental operating expenditure, for each remaining *regulatory year* which the *Transmission Network Service Provider* considers is reasonably required for the purpose of undertaking the *contingent project*;
 - (iv) how the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause ~~6A.8.1(b)(2)(iii)~~[6A.8.1\(b\)\(1\)](#);
 - (v) the intended date for commencing the *contingent project* (which must be during the *regulatory control period*);
 - (vi) the anticipated date for completing the *contingent project* (which may be after the end of the *regulatory control period*); and
 - (vii) an estimate of the incremental revenue which the *Transmission Network Service Provider* considers is likely to be required to be earned in each remaining *regulatory year* of the *regulatory control period* as a result of the *contingent project* being undertaken as described in clause 6A.8.2(b)(3)(iii); and
- (4) the estimate referred to in clause 6A.8.2(b)(3)(vii) must be calculated:
 - (i) on the basis of the capital expenditure referred to in clause 6A.8.2(b)(3)(iii);
 - (ii) on the basis of the rate of return for that *Transmission Network Service Provider* for the *regulatory control period* as determined pursuant to clause 6A.6.2;
 - (iii) consistently with the manner in which depreciation is calculated under clause 6A.6.3;
 - (iv) to include the incremental operating expenditure referred to in clause 6A.8.2(b)(3)(iii); and

[6A.16.1]

- (v) in accordance with the requirements for roll forward in the *roll-forward model* and revenue calculation in the *post-tax revenue model*.
- (c) As soon as practicable after its receipt of an application made in accordance with paragraphs (a) and (b), the AER must *publish* the application, together with an invitation for written submissions on the application.
- (d) The AER must consider any written submissions made under paragraph (c) and must make its decision on the application within ~~30~~40 *business days* of its receipt of that application. In doing so the AER may also take into account such other information as it considers appropriate, including any analysis (such as benchmarking) that is undertaken by it for that purpose and the *capital expenditure factors*. [6A.17] [6A.33.1]
- (e) If the AER is satisfied that the *trigger event* has occurred, and that the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause ~~6A.8.1(b)(2)(iii)~~6A.8.1(b)(1), it must: [6A.16.1]
- (1) determine:
- ~~(i) the amount of capital and incremental operating expenditure, for each remaining regulatory year which the AER considers is reasonably required for the purpose of undertaking the contingent project;~~ [6A.18]
- ~~(ii) the total capital expenditure which the AER considers is reasonably required for the purpose of undertaking the contingent project;~~ [6A.18]
- (i) the scope of the contingent project that the AER considers a prudent Transmission Network Service Provider would be required to undertake to achieve one or more of the capital expenditure objectives; [6A.18]
- (ii) the amount of capital and incremental operating expenditure, for the purpose of undertaking the contingent project, for each remaining regulatory year which the AER considers would, respectively, meet the efficient costs that a prudent Transmission Network Service Provider would require to achieve one or more of the capital expenditure objectives and one or more of the operating expenditure objectives; [6A.18]
- (iii) the total capital expenditure for the purpose of undertaking the contingent project which the AER considers would meet the efficient costs that a prudent Transmission Network Service Provider would require to achieve one or more of the capital expenditure objectives; [6A.18]
- ~~(iii)~~(iv) the likely commencement and completion dates for the *contingent project*; and [6A.18]

- ~~(iv)~~(v) the incremental revenue which is likely to be required by the *Transmission Network Service Provider* in each remaining *regulatory year* as a result of the *contingent project* being undertaken as described in ~~clause 6A.8.2(e)(1)(i)~~ and ~~(ii)~~subparagraphs (ii) and (iii), such estimate being calculated in accordance with subparagraph (2); [6A.18]
- (2) calculate the estimate referred to in ~~clause 6A.8.2(e)(1)(iv)~~subparagraph (1)(v): [6A.18.1]
- (i) on the basis of the capital expenditure referred to in ~~clause 6A.8.2(e)(1)(i)~~subparagraph (1)(ii); [6A.18.1]
- (ii) to include the incremental operating expenditure referred to in ~~clause 6A.8.2(e)(1)(i)~~subparagraph (1)(ii); and [6A.18.1]
- (iii) otherwise in accordance with subparagraph (b)(4); and
- (3) amend the *revenue determination* in accordance with paragraph ~~(h)~~(f). [6A.18.1]
- ~~(f)~~—In making the determinations referred to in subparagraph (e)(1), the *AER* must accept the relevant amounts and dates, contained in the *Transmission Network Service Provider's* application, as referred to in clauses ~~6A.8.2(b)(3)(ii)–(vii)~~, if the *AER* is satisfied that: [6A.16]
- ~~(1)~~—the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause ~~6A.8.1(b)(2)(iii)~~; [6A.16]
- ~~(2)~~—the amounts of forecast capital expenditure and incremental operating expenditure reasonably reflect the *capital expenditure criteria* and the *operating expenditure criteria*, taking into account the *capital expenditure factors* and the *operating expenditure factors* respectively, in the context of the *contingent project*; [6A.16]
- ~~(3)~~—the estimates of incremental revenue are reasonable; and [6A.16]
- ~~(4)~~—the dates are reasonable. [6A.16]
- ~~(g)~~—In making the determinations referred to in paragraphs (e)(1) and (f), the *AER* must take into account: [6A.16]
- ~~(1)~~—the information included in or accompanying the application; [6A.16]
- ~~(2)~~—submissions received in the course of consulting on the application; [6A.16]
- ~~(3)~~—such analysis as is undertaken by or for the *AER*; [6A.16]
- ~~(4)~~—the expenditure that would be incurred in respect of a *contingent project* by an efficient and prudent operator in the circumstances of the *Transmission Network Service Provider*; [6A.16]

- ~~(5) the actual and expected capital expenditure of the *Transmission Network Service Provider* for contingent projects during any preceding *regulatory control periods*;~~ [6A.16]
- ~~(6) the extent to which the forecast capital expenditure for the *contingent project* is referable to arrangements with a person other than the *Transmission Network Service Provider* that, in the opinion of the *AER*, do not reflect arm's length terms;~~ [6A.16]
- ~~(7) the relative prices of operating and capital inputs in relation to the *contingent project*;~~ [6A.16]
- ~~(8) efficient substitution possibilities between operating and capital expenditure in relation to the *contingent project*; and~~ [6A.16]
- ~~(9) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the *service target performance incentive scheme* that is to apply to the provider in respect of the *regulatory control period*.~~ [6A.16]
- ~~(h)~~(f) Amendments to a *revenue determination* referred to in paragraph (e)(3) must only vary the determination to the extent necessary: [6A.18.1]
- (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of capital expenditure determined under ~~clause 6A.8.2(e)(1)(i)~~ subparagraph (e)(1)(ii) (in which case the amount of that adjustment will be taken to be ~~accepted~~ determined by the *AER* under clause 6A.6.7(c)); [6A.8.1] [6A.18.1]
- (2) to adjust the forecast operating expenditure for that *regulatory control period* to accommodate the amount of incremental operating expenditure determined under ~~clause 6A.8.2(e)(1)(i)~~ subparagraph (e)(1)(ii) (in which case the amount of that adjustment will be taken to be ~~accepted~~ determined by the *AER* under clause 6A.6.6(c)); [6A.1.1] [6A.18.1]
- (3) to reflect the effect of any resultant increase in forecast capital and operating expenditure on:
- (i) the *maximum allowed revenue* for each *regulatory year* in the remainder of the *regulatory control period*; and
- (ii) the X factor for each of the remaining *regulatory years* of the *regulatory control period*.
- ~~(i)~~(g) Amendments to a *revenue determination* take effect from the commencement of the next *regulatory year* of the *regulatory control period*. [6A.18.1]
- (h) The *AER* may extend the time limit fixed in paragraph (d) by up to a further 60 *business days* if: [6A.33]

(1) making the decision involves questions of unusual complexity or difficulty; or [6A.33]

(2) the AER requires information further to that specified in the Transmission Network Service Provider's application submitted under paragraph (c). [6A.33]

6A.8.3 Transmission Contingent Project Guidelines [6A.19]

Preparation, publication and amendment of Transmission Contingent Project Guidelines [6A.19]

(a) The AER may, in accordance with the transmission consultation procedures, prepare and publish the Transmission Contingent Project Guidelines. [6A.19]

(b) The AER may, from time to time and in accordance with the transmission consultation procedures, amend or replace the Transmission Contingent Project Guidelines. [6A.19]

Contents of Transmission Contingent Project Guidelines [6A.19]

(c) The Transmission Contingent Project Guidelines may include, but are not limited to specifying the threshold for a contingent project for the purposes of clause 6A.8.1(b)(1). [6A.19]

(d) The Transmission Contingent Project Guidelines may vary in application as between different participating jurisdictions and over time. [6A.19]

...

Part E Procedure – Revenue determinations, negotiating frameworks and pricing methodologies

6A.10 Revenue Proposal, proposed negotiating framework and proposed pricing methodology

6A.10.1 Submission of proposal, framework, pricing methodology and information

(a) A *Transmission Network Service Provider* must submit to the AER a *Revenue Proposal* and a proposed *pricing methodology* relating to the *prescribed transmission services* that are provided by means of, or in connection with, a *transmission system* that is owned, controlled or operated by that provider:

(1) if any of those *prescribed transmission services* are subject to a *transmission determination*, 13 months before the expiry of the period in respect of which that *transmission determination* applies; or

- (2) if any of those *prescribed transmission services* are not subject to a *transmission determination*, 3 months after being required to do so by the *AER*.
- (b) At the same time as it submits a *Revenue Proposal* under paragraph (a), the provider must also submit to the *AER* a proposed *negotiating framework*.
- (c) The *Revenue Proposal* and the proposed *negotiating framework* must comply with the requirements of, and must contain or be accompanied by such information as is required by, the *submission guidelines* made for that purpose under this rule 6A.10.
- (d) The proposed *negotiating framework* must also comply with the requirements of clause 6A.9.5.
- (e) A proposed *pricing methodology* must:
 - (1) give effect to and be consistent with the *Pricing Principles for Prescribed Transmission Services*; and
 - (2) comply with the requirements of, and contain or be accompanied by such information as is required by, the *pricing methodology guidelines* made for that purpose under rule 6A.25.
- (f) The *Revenue Proposal* must also include a statement of whether it is consistent with the most recent *NTNDP* and, if it is inconsistent, identify and give reasons for the inconsistency.
- (g) The *Revenue Proposal* must identify the parts of the proposal and any accompanying information (if any) the *Transmission Network Service Providers* claims to be confidential in accordance with the requirements of the *submission guidelines*.

[6A.35]

...

6A.11 Preliminary examination and consultation

...

6A.11.3 Resubmission of proposal, framework, pricing methodology or information

- (a) ~~Except~~ Subject to clause 6A.10.1(g) and except to the extent that the *submission guidelines* or the *pricing methodology guidelines* provide that it will not be publicly disclosed (and, in that case, the relevant *Transmission Network Service Provider* has not otherwise consented), the *AER* must *publish*:
 - (1) the *Revenue Proposal*;
 - (2) the proposed *negotiating framework*;

[6A.35]

(3) the proposed *pricing methodology*; and

(4) the information,

submitted or resubmitted to it by the provider under rule 6A.9, 6A.10 or this rule 6A.11, together with:

(5) the AER's proposed *Negotiated Transmission Service Criteria* for the provider; and

(6) ~~an invitation for a notice inviting~~ written submissions ~~on the documents and information referred to in subparagraphs (1)-(4);~~ [6A.37]

(i) on the documents and information referred to in subparagraphs (1)-(4), from any person other than the *Transmission Network Service Provider* that submitted those documents and that information; and [6A.37]

(ii) on the document referred to in subparagraph (5), from any person; and [6A.37]

(7) the date by which submissions must be made, which must not be earlier than 30 *business days* after the notice inviting submissions is published. [6A.37]

as soon as practicable after the AER determines that the *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* and information comply with the requirements of the *submission guidelines*, clause 6A.9.5 or clause 6A.10.1(e) (as applicable).

(b) The AER may *publish* an issues paper examining the issues raised in connection with the *Revenue Proposal*, the proposed *negotiating framework*, the proposed *pricing methodology* and the proposed *Negotiated Transmission Service Criteria*, at the same time as, or subsequent to, publication of the ~~invitation to make~~ notice inviting submissions referred to in paragraph (a)(6). [6A.37]

(c) ~~Any person may make a written submission to the AER on the *Revenue Proposal*, the proposed *negotiating framework*, the proposed *pricing methodology* or the proposed *Negotiated Transmission Service Criteria* for the provider within the time specified in the invitation referred to in paragraph (a)(6), which must be not earlier than 30 *business days* after the invitation for submissions is *published* under that paragraph.~~ [6A.37]

(c) Subject to subparagraph (a)(6), a *Transmission Network Service Provider* may only make a written submission in response to a notice *published* under subparagraph (a)(6) in respect of documents and information referred to in subparagraphs (a)(1)-(4) that were submitted by another *Transmission Network Service Provider*. [6A.37]

(d) Where: [6A.37]

- (1) the AER is making transmission determinations in relation to two or more Transmission Network Service Providers at the same time; and [6A.37]
- (2) a Transmission Network Service Provider makes a written submission referred to in paragraph (c), [6A.37]
- that written submission may only address material differences between: [6A.37]
- (3) the documents and information referred to in subparagraphs (a)(1)-(4) that were submitted by it; and [6A.37]
- (4) the documents and information referred to in subparagraphs (a)(1)-(4) that were submitted by another Transmission Network Service Provider. [6A.37]

6A.12 Draft decision and further consultation

6A.12.1 Making of draft decision

- (a) Subject to the Law and rule 6A.16~~(a)~~, the AER must: [6A.3] [6A.10] [6A.38]
- (1) consider any written submissions made ~~under~~in accordance with rule 6A.11; [6A.3] [6A.10] [6A.38]
- (2) consider the information included in or accompanying the Revenue Proposal; [6A.3] [6A.10]
- (3) have regard to such analysis as is undertaken by or for the AER; and [6A.3] [6A.10]
- (4) must make a draft decision in relation to the Transmission Network Service Provider. [6A.3.1]
- (b) The AER's draft decision must be made in accordance with, and must comply with, the relevant requirements of rule 6A.14.
- (c) If the AER's draft decision differs to the Revenue Proposal in respect of ~~refuses to approve~~ any of the amounts, ~~or~~ values or projects referred to in clause 6A.14.1(1)~~-(4)~~, the AER's draft decision must include details of the changes required or matters to be addressed before the AER will determine, identify or approve (as the case may be) those amounts, ~~or~~ values or projects. [6A.36.1]
- (d) If the AER refuses to approve the proposed *negotiating framework*, the AER's draft decision must include details of the changes required or matters to be addressed before the AER will approve the framework.
- (e) If the AER refuses to approve any aspect of a proposed *pricing methodology*, the AER's draft decision must include details of the changes required or matters to be addressed before the AER will approve the proposed methodology.

6A.12.2 Publication of draft decision and consultation

(a) The *AER* must, as soon as practicable but not later than 6 months after the relevant date referred to in clause 6A.10.1(a), *publish*:

(1) its draft decision and reasons under clause 6A.12.1 and rule 6A.14;

(2) notice of the making of the draft decision;

(3) notice of a predetermination conference; and

(4) ~~an invitation for~~ notice inviting written submissions on its draft decision, from any person other than the *Transmission Network Service Provider* that submitted the *Revenue Proposal* on which the draft decision is based; and

[6A.38]

(5) the date by which submissions must be made, which must not be earlier than 45 *business days* after the date the predetermination conference is to be held.

[6A.38]

(b) The *AER* must hold a predetermination conference at the time, date and place specified in the notice under paragraph (a)(3) for the purpose of explaining its draft decision and receiving oral submissions from interested parties. Any person may attend such a predetermination conference but the procedure to be adopted at the conference will be at the discretion of the senior *AER* representative in attendance.

(c) ~~Any person may make a written submission to the *AER* on the draft decision within the time specified in the invitation referred to in paragraph (a)(4), which must be not earlier than 45 *business days* after the holding of a predetermination conference.~~

[6A.38]

A *Transmission Network Service Provider* may only make a written submission in response to a notice *published* under subparagraph (a)(4) in respect of a draft decision that has been made in relation to another *Transmission Network Service Provider*.

[6A.38]

(d) Where:

[6A.38]

(1) the *AER* is making transmission determinations in relation to two or more *Transmission Network Service Providers* at the same time; and

[6A.38]

(2) a *Transmission Network Service Provider* makes a written submission referred to in paragraph (c),

[6A.38]

that written submission may only address material differences between:

[6A.38]

(3) the draft decision that has been made in relation to it, or any revised proposal, framework or pricing methodology that it submits under clause 6A.12.3; and

[6A.38]

(4) a draft decision that has been made in relation to another *Transmission Network Service Provider*, or any revised proposal, framework or pricing methodology that provider submits under clause 6A.12.3.

[6A.38]

6A.12.3 Submission of revised proposal, framework or pricing methodology

(a) ~~In addition to making such other written submissions as it considers appropriate, †~~The *Transmission Network Service Provider* may, not more than 30 *business days* after the publication of the draft decision, submit to the *AER*:

[6A.38]

- (1) a revised *Revenue Proposal*;
- (2) a revised proposed *negotiating framework*; or
- (3) a revised proposed *pricing methodology*.

(b) A *Transmission Network Service Provider* may only make the revisions referred to in paragraph (a) so as to incorporate the substance of any changes required by, or to address matters raised in, the draft decision.

(c) A revised *Revenue Proposal* or revised proposed *negotiating framework* must comply with the requirements of, and must contain or be accompanied by such information as is required by, the *submission guidelines*.

(d) The revised proposed *negotiating framework* must also comply with the requirements of clause 6A.9.5.

(e) A revised proposed *pricing methodology* must:

- (1) give effect to and be consistent with the *Pricing Principles for Prescribed Transmission Services*; and
- (2) comply with the requirements of, and must contain or be accompanied by such information as is required by, the *pricing methodology guidelines*.

(e) The revised *Revenue Proposal* must identify the parts of the proposal and any accompanying information (if any) the *Transmission Network Service Providers* claims to be confidential in accordance with the requirements of the *submission guidelines*.

[6A.35]

(f) ~~Except~~Subject to paragraph (e) and except to the extent that the *submission guidelines* or the *pricing methodology guidelines* (as the case may be) provide that it will not be publicly disclosed (and, in that case, the *Transmission Network Service Provider* has not otherwise consented), the *AER* must *publish*:

[6A.35]

- (1) any revised *Revenue Proposal*;
- (2) any revised proposed *negotiating framework*; or

(3) any revised proposed *pricing methodology*,

(as the case may be), that is submitted by the *Transmission Network Service Provider* under paragraph (a), together with the accompanying information, as soon as practicable after receipt by the *AER*.

6A.13 Final decision

6A.13.1 Making of final decision

- (a) Subject to [the Law and](#) rule 6A.16~~(a)~~, the *AER* must: [6A.3] [6A.10] [6A.38]
- (1) [consider any submissions made on the draft decision, or on any revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* submitted to it ~~under~~\[in accordance with\]\(#\) clause 6A.12.3;](#) [6A.3] [6A.10] [6A.38]
- (2) [consider the information included in or accompanying any revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* submitted to it under clause 6A.12.3;](#) [6A.3] [6A.10]
- (3) [have regard to such analysis as is undertaken by or for the *AER*; and](#) [6A.3] [6A.10]
~~must~~
- (4) [make a final decision in relation to the *Transmission Network Service Provider*.](#) [6A.3.1] [6A.10.1]
- (b) The *AER's* final decision must be made in accordance with, and must comply with, the relevant requirements of rule 6A.14.

6A.13.2 Refusal to approve amounts, values, framework or pricing methodology

- (a) If the *AER's* final decision is to refuse to approve an amount or value referred to in clauses ~~6A.14.1(1)~~[6A.14.1\(3\)\(i\)–\(iii\)](#), the *AER* must include in its final decision a substitute amount or value which, except as provided in paragraph (b), is: [6A.36.2]
- (1) determined on the basis of the current *Revenue Proposal*; and
- (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the *Rules*.
- ~~(b) If the *AER's* final decision is to refuse to approve an amount or value referred to in clause 6A.14.1(1) for the reason that, or a reason which includes the reason that, the *AER* is not satisfied that:~~ [6A.36.1]
- ~~(1) the total of the forecast operating expenditure for the regulatory control period reasonably reflects the operating expenditure criteria, taking into account the operating expenditure factors; or~~ [6A.36.1]

~~(2) the total of the forecast capital expenditure for the regulatory control period reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors;~~ [6A.36.1]

~~the AER must:~~ [6A.36.1]

~~(3) where subparagraph (1) applies, include in its final decision (in addition to the estimate referred to in clause 6A.14.1(3)(ii)) the forecast operating expenditure for each regulatory year which the AER is satisfied reasonably reflects the operating expenditure criteria, taking into account the operating expenditure factors, subject only to the requirement that the total of such forecasts must equate to the estimate referred to in clause 6A.14.1(3)(ii);~~ [6A.36.1]

~~(4) where subparagraph (2) applies, include in its final decision (in addition to the estimate referred to in clause 6A.14.1(2)(ii)) the forecast capital expenditure for each regulatory year which the AER is satisfied reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors, subject only to the requirement that the total of such forecasts must equate to the estimate referred to in clause 6A.14.1(2)(ii); and~~ [6A.36.1]

~~(5) use each such amount (and its components) in place of the forecast of required operating or capital expenditure that is included in the current Revenue Proposal for the purposes of calculating the amount or value that it has refused to approve in its final decision.~~ [6A.36.1]

~~(e)~~(b) If the AER's final decision is to refuse to approve the proposed *negotiating framework* referred to in clause ~~6A.14.1(6)~~6A.14.1(5), the AER must include in its final decision an amended *negotiating framework* which is: [6A.36.2]

- (1) determined on the basis of the current proposed *negotiating framework*; and
- (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the *Rules*.

~~(d)~~(c) If the AER's final decision is to refuse to approve the proposed *pricing methodology*, the AER must include in its final decision an amended *pricing methodology* which is: [6A.36.2]

- (1) determined on the basis of the current proposed *pricing methodology*; and
- (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the *Rules*.

...

6A.14 Requirements relating to draft and final decisions

6A.14.1 Contents of decisions

A draft decision under rule 6A.12 or a final decision under rule 6A.13 is a decision ~~by~~in which the AER, setting out its reasons:

[6A.36]

(1) ~~on the Transmission Network Service Provider's current Revenue Proposal in which the AER either approves or refuses to approve~~determines: [6A.1.1] [6A.8.1] [6A.36]

(i) the *total revenue cap* for the provider for the *regulatory control period*;

(ii) the *maximum allowed revenue* for the provider for each *regulatory year* of the *regulatory control period*;

~~(iii) the values that are to be attributed to the performance incentive scheme parameters for the service target performance incentive scheme that is to apply to the provider in respect of the regulatory control period;~~

[6A.36]

~~(iv) the values that are to be attributed to the efficiency benefit sharing scheme parameters for the efficiency benefit sharing scheme that is to apply to the provider in respect of the regulatory control period; and~~

[6A.36]

~~(v) the commencement and length of the regulatory control period that has been proposed by the provider,~~

[6A.36]

~~as set out in the Revenue Proposal, setting out the reasons for the decision;~~

[6A.36]

~~(2) in which the AER either:~~

[6A.36]

~~(i) acting in accordance with clause 6A.6.7(e), accepts the total of the forecast capital expenditure for the regulatory control period that is included in the current Revenue Proposal; or~~

[6A.8.1] [6A.36]

~~(ii) acting in accordance with clause 6A.6.7(d), does not accept the total of the forecast capital expenditure for the regulatory control period that is included in the current Revenue Proposal, in which case the AER must set out its reasons for that decision and an estimate of the total of the Transmission Network Service Provider's required capital expenditure for the regulatory control period that the AER is satisfied reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors;~~

[6A.8.1] [6A.36]

(iii) under clause 6A.6.7(c), the total of the forecast of required capital expenditure for the regulatory control period and the forecast of required capital expenditure for each regulatory year of the regulatory control period;

[6A.8.1] [6A.36]

~~(3) in which the AER either:~~

[6A.36]

~~(i) acting in accordance with clause 6A.6.6(c) or clause 6A.6.6(c1), accepts the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*; or~~ [6A.1.1] [6A.36]

~~(ii) acting in accordance with clause 6A.6.6(d), does not accept the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*, in which case the *AER* must set out its reasons for that decision and an estimate of the total of the *Transmission Network Service Provider's* required operating expenditure for the *regulatory control period* that the *AER* is satisfied reasonably reflects the *operating expenditure criteria*, taking into account the *operating expenditure factors*;~~ [6A.1.1] [6A.36]

(iv) under clause 6A.6.6(c), the total of the forecast of required operating expenditure for the *regulatory control period* and the forecast of required operating expenditure for each *regulatory year* of the *regulatory control period* or under clause 6A.6.6(c1), accepts the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*; [6A.1.1] [6A.36]

~~(4) in which the *AER* determines:~~ [6A.36]

~~(i) whether each of the *proposed contingent projects* (if any) described in the current *Revenue Proposal* are *contingent projects* for the purposes of the *revenue determination* in which case the decision must clearly identify each of those *contingent projects*;~~ [6A.16.4] [6A.36]

~~(ii) the capital expenditure that it is satisfied reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*, in the context of each *contingent project* as described in the current *Revenue Proposal*;~~ [6A.16.4] [6A.36]

~~(iii) the *trigger events* in relation to each *contingent project* (in which case the decision must clearly specify those *trigger events*); and~~ [6A.16.4] [6A.36]

~~(iv) if the *AER* determines that such a *proposed contingent project* is not a *contingent project* for the purposes of the *revenue determination*, its reasons for that conclusion, having regard to the requirements of clause 6A.8.1(b);~~ [6A.16.4] [6A.36]

(v) under clause 6A.8.1(e), the *contingent projects*, which may include the *proposed contingent projects* (if any), for the purposes of the *revenue determination* and the associated *trigger events* for each *contingent project*; [6A.16.4] [6A.36]

(vi) whether depreciation for establishing the regulatory asset base as at the commencement of the relevant *regulatory control period* is to be based on actual or forecast capital expenditure; [6A.30.2] [6A.36]

~~(5)(2) in which the *AER* determines and~~ sets out the amounts, values or inputs that it has used in place of those referred to in clause 6A.10.2(b)(9); [6A.36]

- ~~(6)~~(3) approves or refuses to approve, on the *Transmission Network Service Provider's current Revenue Proposal*: [6A.36]
- (i) the values that are to be attributed to the *performance incentive scheme parameters for the service target performance incentive scheme* that is to apply to the provider in respect of the *regulatory control period*; [6A.36]
- (ii) the values that are to be attributed to the *efficiency benefit sharing scheme parameters for the efficiency benefit sharing scheme* that is to apply to the provider in respect of the *regulatory control period*; [6A.36]
- (iii) the values that are to be attributed to the parameters for the other incentive scheme or schemes developed and *published* under clause 6A.7.5 that is to apply to the provider in respect of the *regulatory control period*; [6A.29.3] [6A.36]
- (iv) the commencement and length of the *regulatory control period* that has been proposed by the provider; [6A.36]
- (4) approves or refuses to approve, on the ~~provider's~~*Transmission Network Service Provider's* current proposed *negotiating framework*, ~~in which the AER either approves or refuses to approve~~ the proposed *negotiating framework*, ~~setting out reasons for its decision~~; and [6A.36]
- ~~(7)~~(5) ~~in which the AER~~ specifies the *Negotiated Transmission Service Pricing Criteria* for the *Transmission Network Service Provider*, ~~setting out the reasons for the decision~~; and [6A.36]
- ~~(8)~~(6) approves or refuses to approve, on the *Transmission Network Service Provider's* current proposed *pricing methodology*, ~~in which the AER either approves or refuses to approve~~ that methodology ~~and sets out reasons for its decision~~. [6A.36]

...

6A.14.3 Circumstances in which matters must be approved or accepted

- (a) This clause set out the circumstances in which the *AER* must approve or accept certain matters for the purposes of a draft decision under rule 6A.12 or a final decision under rule 6A.13. Subject to any provision of this Chapter 6A, if the *AER* is not required to approve or accept such a matter in accordance with this clause, it may, but is not required to, refuse to approve or accept that matter.
- ~~(b) —The AER must approve:~~ [6A.36.1]
- ~~(1) —the total revenue cap for a *Transmission Network Service Provider* for a *regulatory control period*; and~~ [6A.36.1]
- ~~(2) —the maximum allowed revenue for the provider for each *regulatory year of the regulatory control period*;~~ [6A.36.1]

~~as set out in the current *Revenue Proposal*, if the AER is satisfied that:~~ [6A.36.1]

~~(3) those amounts have been properly calculated using the *post-tax revenue model*; and~~ [6A.36.1]

~~(4) those amounts, and any amount required to be calculated, determined or forecast for the purposes of calculating those amounts, have otherwise been calculated, determined or forecast in accordance with the requirements of Part C of this Chapter 6A, (for these purposes, the AER is taken to be so satisfied in respect of a particular amount if another provision of this Chapter 6A requires the AER to approve or accept that amount).~~ [6A.36.1]

~~(e)~~(b) If a *Transmission Network Service Provider's* revised *Revenue Proposal* submitted under clause 6A.12.3(a) includes: [6A.36.2]

(1) an amount of total required forecast capital expenditure for the *regulatory control period* and for each *regulatory year* of the *regulatory control period* that is the same as that ~~accepted or estimated (as the case may be)~~determined by the AER in a draft decision under rule 6A.12; or [6A.8.1]

(2) an amount of total forecast required operating expenditure for the *regulatory control period* and for each *regulatory year* of the *regulatory control period* that is the same as that ~~accepted or estimated (as the case may be)~~determined by the AER in a draft decision under rule 6A.12, [6A.1.1]

then, except to the extent that:

(3) either or both of the following apply:

(i) other changes have been made in the revised *Revenue Proposal*; or

(ii) the information contained in or accompanying the revised *Revenue Proposal* differs from that contained in or accompanying the previous *Revenue Proposal*; and

(4) the changes are such that the AER ~~is not satisfied~~would not determine the amounts of the total forecasts of required capital expenditure or required operating expenditure specified in the draft decision as referred to inunder clauses 6A.6.6(c) or 6A.6.7(c) (as the case may be), [6A.1.1] [6A.8.1]

the AER, in its final decision, must accept the forecasts of required operating expenditure or of required capital expenditure (as the case may be) that is included in the revised *Revenue Proposal*. [6A.1.1] [6A.8.1]

~~(d)~~(c) The AER must approve: [6A.36.2]

(1) the values that are to be attributed to the *performance incentive scheme parameters* for the *service target performance incentive scheme* that is to apply to a *Transmission Network Service Provider* in respect of a *regulatory control period*; ~~and~~ [6A.29.4]

(2) the values that are to be attributed to the *efficiency benefit sharing scheme parameters* for the *efficiency benefit sharing scheme* that is to apply to a *Transmission Network Service Provider* in respect of a *regulatory control period*; ~~and~~ [6A.29.4]

(3) the values that are to be attributed to parameters for any applicable other incentive scheme or schemes developed and published under clause 6A.7.5 that is to apply to a *Transmission Network Service Provider* in respect of a *regulatory control period*. [6A.29.4]

as set out in the current *Revenue Proposal*, if the *AER* is satisfied that those values comply with the requirements relating to them set out in the *service target performance incentive scheme*, ~~or~~ the *efficiency benefit sharing scheme* or any incentive scheme or schemes developed and published under clause 6A.7.5 (as the case may be). [6A.29.4]

~~(e)~~(d) The *AER* must approve the commencement and length of the *regulatory control period* as proposed by a *Transmission Network Service Provider* in the provider's current *Revenue Proposal* if the length of the *regulatory control period* as so proposed is 5 *regulatory years*. [6A.36.2]

~~(f)~~(e) The *AER* must approve a *Transmission Network Service Provider's* current proposed *negotiating framework* if the *AER* is satisfied that the relevant proposed *negotiating framework* meets the requirements set out in clause 6A.9.5(c). [6A.36.2]

~~(g)~~(f) The *AER* must approve a *Transmission Network Service Provider's* current proposed *pricing methodology* if the *AER* is satisfied that the methodology: [6A.36.2]

(1) gives effect to and is consistent with the *Pricing Principles for Prescribed Transmission Services*; and

(2) complies with the requirements of the *pricing methodology guidelines*.

~~(h)~~(g) If a *Transmission Network Service Provider's* revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* (as the case may be) submitted under clause 6A.12.3(a): [6A.36.2]

(1) contains the changes required under clause 6A.12.1; or

(2) does not contain those changes but otherwise (in the *AER's* view), adequately addresses the matters which prompted the *AER* to require those changes,

then, except to the extent that:

(3) either or both of the following apply:

- (i) other changes have been made in the revised *Revenue Proposal*, the revised proposed *negotiating framework* or the revised proposed *pricing methodology*, by the provider; or
 - (ii) the information contained in or accompanying the revised *Revenue Proposal*, revised proposed *negotiating framework* or revised proposed *pricing methodology* differs from that contained in or accompanying the previous *Revenue Proposal*, proposed *negotiating framework* or proposed *pricing methodology* submitted or resubmitted; and
- (4) the changes would justify the *AER*, in its final decision, in refusing to approve the amounts or values referred to in clause ~~6A.14.1(5)~~[6A.13.2\(a\)](#), the proposed *negotiating framework* referred to in clause ~~6A.13.2(e)~~[6A.13.2\(b\)](#) or the proposed *pricing methodology* referred to in clause ~~6A.13.2(d)~~[6A.13.2\(c\)](#),

[6A.36.2]

the *AER*'s final decision must be to approve those amounts or values, that proposed *negotiating framework* or that proposed *pricing methodology*.

- ~~(h)~~[\(h\)](#) The *AER* must only specify criteria as *Negotiated Transmission Service Criteria* for a *Transmission Network Service Provider* in a draft or final decision under rule 6A.12 or 6A.13 if those criteria give effect to and are consistent with the *Negotiated Transmission Services Principles*.

[6A.36.2]

6A.15 Revocation and substitution or amendment of revenue determination or amendment of pricing methodology for wrong information or error

[6A.21]

- (a) Except as provided in clause 6A.7.1(d), the *AER* may only (but is not required to) revoke or amend a *revenue determination* or amend an existing *pricing methodology* during a *regulatory control period* where it appears to the *AER* that:

[6A.21]

- (1) the *total revenue cap* was set or the *pricing methodology* was approved on the basis of information provided by or on behalf of the relevant *Transmission Network Service Provider* to the *AER* that was false or misleading in a material particular; or
- (2) there was a material error or deficiency in the ~~*total revenue cap*~~*revenue determination* or in the *pricing methodology*.

[6A.21]

- (b) If the *AER* revokes a *revenue determination* under paragraph (a)(1) or (a)(2), the *AER* must make a new *revenue determination* in substitution for the revoked *revenue determination* to apply for the remainder of the *regulatory control period* for which the revoked *revenue determination* was to apply.

[6A.21]

- (c) If the *AER* revokes and substitutes or amends a *revenue determination* under paragraph (a)(1) or (a)(2), the substituted or amended *revenue determination* must only vary from the revoked or existing *revenue determination* to the extent necessary to correct the relevant error.

[6A.21]

- (d) If the *AER* amends a *pricing methodology* under paragraph (a)(1), the amended methodology applies to the setting of prices for the next *financial year* and for the remainder of the relevant *regulatory control period*.
- (e) If the *AER* amends a *pricing methodology* under paragraph (a)(2), the amended methodology must only vary from the existing *pricing methodology* to the extent necessary to correct the relevant error or deficiency. [6A.21]
- (f) The *AER* may only revoke and substitute or amend a *revenue determination* or amend a *pricing methodology* under this rule 6A.15, if it has first consulted with the relevant *Transmission Network Service Provider* and such other persons as it considers appropriate. [6A.21]

6A.16 Miscellaneous

- ~~(a) The *AER* may, but is not required to, consider any submission made pursuant to an invitation for submissions after the time for making the submission has expired.~~ [6A.39]

6A.16.1 Out-of-scope submissions and late proposals [6A.39]

- (a) Subject to the Law, where the *AER* publishes a notice inviting submissions under this Part E, the *AER* must not consider any submission, or any material supplied with a submission that, in the *AER*'s opinion, does not comply with clause 6A.11.3 or 6A.12.2, or is otherwise not relevant to the purpose of the invitation. [6A.39]
- (b) Where a *Transmission Network Service Provider* resubmits a *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* or information under clause 6A.11.2 or submits a revised *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* or information under clause 6A.12.3, the *AER* must not consider: [6A.39]
 - (1) a resubmitted or revised *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* or information that was submitted late; or [6A.39]
 - (2) if the revised *Revenue Proposal*, proposed *negotiating framework*, proposed *pricing methodology* or information includes material that is not permitted under clause 6A.12.3—that material. [6A.39]
- (c) This clause does not prevent the *AER* from accepting typographical corrections, corrections of miscalculations and corrections of other errors that do not affect the substance of a written submission or document. [6A.39]

6A.16.2 Other matters [6A.39.1]

- ~~(b)~~(a) Nothing in this Part E is to be construed as precluding the *AER* from *publishing* any issues, consultation and discussion papers, or holding any conferences and information sessions, that the *AER* considers appropriate. [6A.39.1]

- ~~(e)~~(b) Subject to paragraph ~~(d)~~(c), as soon as practicable after the *AER* receives a submission in response to an invitation referred to in clause 6A.11.3(a)(6) or 6A.12.2(a)(4) (whether or not the submission was made before the time for making it has expired), the *AER* must *publish* that submission. [6A.39.1]
- ~~(d)~~(c) The *AER* must not *publish* a submission referred to in paragraph ~~(e)~~(b) to the extent it contains information which has been clearly identified as confidential by the person making the submission. [6A.39.1]
- ~~(e)~~(d) The *AER* may give such weight to confidential information identified in accordance with paragraph ~~(d)~~(c) in a submission as it considers appropriate, having regard to the fact that such information has not been made publicly available. [6A.39.1]
- (e) The *AER* may give such weight to confidential information identified in accordance with clause 6A.10.1(g) in a *Revenue Proposal* or clause 6A.12.3(e1) in a revised *Revenue Proposal*, as it considers appropriate, having regard to the fact that such information has not been made publicly available. [6A.35]
- (f) Paragraph ~~(d)~~(c) does not apply to the extent that any other provision of the *Rules* permits or requires such information to be publicly released by the *AER*. [6A.39.1]

Part F Information Disclosure

6A.17 Information disclosure by Transmission Network Service Providers

6A.17.1 Information to be provided to AER

- (a) In this rule 6A.17, '**certified annual statement**' means an annual statement provided by a *Transmission Network Service Provider* under this rule 6A.17 and certified in accordance with the *information guidelines*.
- (b) A *Transmission Network Service Provider* must submit to the *AER*, in the manner and form set out in the *information guidelines*, annual statements that:
- (1) provide a true and fair statement of the financial and operating performance of the provider;
 - (2) are certified in accordance with the *information guidelines*; and
 - (3) otherwise comply with the requirements of this clause and the *information guidelines*.
- (c) In addition to the certified annual statements, the *AER* may require a *Transmission Network Service Provider* to provide, by a date and in the form and manner specified by the *AER*, any additional information the *AER* reasonably requires for a purpose set out in paragraph (d).

- (d) The certified annual statements and additional information provided by a *Transmission Network Service Provider* to the *AER* under this rule 6A.17 may be used by the *AER* only for the following purposes:
- (1) to monitor, report on and enforce the compliance of the provider with the *total revenue cap* for the provider for a *regulatory control period*, the *maximum allowed revenue* for the provider for each *regulatory year*, and any requirements that are imposed on the provider under a *transmission determination*;
 - (2) to monitor, report on and enforce compliance with the provider's *Cost Allocation Methodology*;
 - (3) as an input regarding the financial, economic and operational performance of the provider, to inform the *AER*'s decision-making for the making of *revenue determinations* or other regulatory controls to apply in future *regulatory control periods*;
 - (4) to monitor and report on the performance of the provider under any *service target performance incentive scheme* that applies to it; ~~and~~
 - (4A) to monitor and report on the performance of the provider under any applicable other incentive scheme or schemes developed and published under clause 6A.7.5 that applies to it; and
 - (5) for the preparation of a *network service provider performance report*.
- (e) The *AER* may request or undertake verification or independent audit of any information sought by it, or provided to it, under this rule 6A.17.

[6A.29.5]

[6A.29.5]

...

Schedule 6A.1 Contents of Revenue Proposals

...

S6A.1.3 Additional information and matters

A *Revenue Proposal* must contain at least the following additional information and matters:

- (1) an identification and explanation of any significant interactions between the forecast capital expenditure and forecast operating expenditure programs;
- (2) the values that the *Transmission Network Service Provider* proposes are to be attributed to the *performance incentive scheme parameters* for the purposes of the application to the provider of the applicable *service target performance incentive scheme* that applies in respect of the relevant *regulatory control period*, and an explanation of how the values proposed to be attributed to those parameters comply with any requirements relating to them set out in that scheme;

[6A.34]

- (3) the values that the provider proposes are to be attributed to the *efficiency benefit sharing scheme parameters* for the purposes of the application to the provider of the [applicable efficiency benefit sharing scheme](#) that applies in respect of the relevant *regulatory control period*, and an explanation of how the values proposed to be attributed to those parameters comply with any relevant requirements set out in that scheme;

[6A.34]

[\(3A\) the values that the provider proposes are to be attributed to the parameters for the purposes of the application to the provider of any applicable other incentive scheme or schemes developed and published under clause 6A.7.5 that applies in respect of the relevant regulatory control period, and an explanation of how the values proposed to be attributed to those parameters comply with any relevant requirements set out in that other incentive scheme or schemes;](#)

[6A.29.6]

- (4) the provider's calculation of:
- (i) the estimated *total revenue cap* for it for the relevant *regulatory control period*; and
 - (ii) the *maximum allowed revenue* for it for each *regulatory year* of the relevant *regulatory control period*,

using the *post-tax revenue model* referred to in rule 6A.5 of the *Rules*, together with:

- (iii) details of all amounts, values and other inputs used by the provider for that purpose;
 - (iv) a demonstration that any such amounts, values and other inputs comply with the relevant requirements of Part C of Chapter 6A of the *Rules*; and
 - (v) an explanation of the calculation of the amounts referred to in subparagraphs (i) and (ii) and of the amounts, values and inputs referred to in subparagraph (iii);
- (5) the provider's calculation of the regulatory asset base for the relevant *transmission system* for each *regulatory year* of the relevant *regulatory control period* using the *roll forward model* referred to in clause 6A.6.1 of the *Rules*, together with:
- (i) details of all amounts, values and other inputs used by the provider for that purpose;
 - (ii) a demonstration that any such amounts, values and other inputs comply with the relevant requirements of Part C of Chapter 6A of the *Rules*; and
 - (iii) an explanation of the calculation of the regulatory asset base for each *regulatory year* of the relevant *regulatory control period* and of the amounts, values and inputs referred to in subparagraph (i);

- (6) ~~the commencement and length of the period nominated by the *Transmission Network Service Provider* for the purposes of clause 6A.6.2(e)(2) of the *Rules*~~ the provider's calculation of the proposed rate of return in accordance with clause 6A.6.2 and any information or matters in relation to the rate of return as required by the applicable *statement on the cost of capital*; [6A.23.3] [6A.24.2]
- (7) the depreciation schedules nominated by the *Transmission Network Service Provider* for the purposes of clause 6A.6.3 of the *Rules*, which categorise the relevant assets for these purposes by reference to well accepted categories such as:
- (i) asset class (eg *transmission lines* and *substations*); or
 - (ii) category driver (eg *regulatory obligations or requirements*, replacement, *reliability*, net market benefit, and business support),
- and also by location, together with:
- (iii) details of all amounts, values and other inputs used by the provider to compile those depreciation schedules;
 - (iv) a demonstration that those depreciation schedules conform with the requirements set out in clause 6A.6.3(b) of the *Rules*; and
 - (v) an explanation of the calculation of the amounts, values and inputs referred to in subparagraph (iii);
- (8) the X factors nominated by the provider for each *regulatory year* of the relevant *regulatory control period* for the purposes of clause 6A.6.8(a) of the *Rules*, together with a demonstration that those X factors comply with the requirements set out in clause 6A.6.8(b) of the *Rules*;
- (9) the commencement and length of the *regulatory control period* proposed by the *Transmission Network Service Provider*; and
- (10) if the *Transmission Network Service Provider* is seeking a determination by the AER that a *proposed contingent project* is a *contingent project* for the purposes of the relevant *revenue determination*:
- (i) a description of the *proposed contingent project*, including reasons why the provider considers the project should be accepted as a *contingent project* for the *regulatory control period*;
 - (ii) a forecast of the capital expenditure which the provider considers is reasonably required for the purpose of undertaking the *proposed contingent project*;
 - (iii) the methodology used for developing that forecast and the key assumptions that underlie it;

- (iv) information that demonstrates that the undertaking of the *proposed contingent project* is reasonably required in order to achieve one or more of the *capital expenditure objectives*;
- (v) information that demonstrates that the *proposed contingent capital expenditure* for the *proposed contingent project* complies with the requirements set out in clauses ~~6A.8.1(b)(2)~~6A.8.1(b)–(d) of the *Rules*; and
- (vi) the *trigger events* which are proposed in relation to the *proposed contingent project* and an explanation of how each of those conditions or events addresses the matters referred to in clause ~~6A.8.1(e)~~6A.8.1(f) of the *Rules*.

[6A.16.1]

[6A.16.1]

Schedule 6A.2 Regulatory Asset Base

S6A.2.1 Establishment of opening regulatory asset base for a regulatory control period

(a) Application of this clause

This clause S6A.2.1:

- (1) applies to the establishment of the value of the regulatory asset base for a *transmission system* as at the beginning of a *regulatory control period* on the roll forward of the regulatory asset base to that *regulatory control period* from the previous *regulatory control period*; and
- (2) also applies to the establishment of the value of the regulatory asset base for a *transmission system* as at the beginning of a *regulatory control period* where the *transmission system* was not immediately before that time the subject of a *revenue determination*.

(b) Roll forward model to comply with this clause

The *roll forward model* referred to in clause 6A.6.1 of the *Rules* must provide for those values to be established in accordance with the requirements of clauses S6A.2.1, S6A.2.2 and S6A.2.3.

(c) Transmission systems of specific providers

- (1) In the case of a *transmission system* owned, controlled or operated by one of the following *Transmission Network Service Providers* as at 16 February 2006, the value of the regulatory asset base for that *transmission system* as at the beginning of that first *regulatory year* must be determined by rolling forward the regulatory asset base for that *transmission system*, as set out in the table below, in accordance with this schedule:

Transmission Network Service Provider	Regulatory Asset Base (\$m)
EnergyAustralia	635.6 (as at 1 July 2004)
TransGrid	3,012.76 (as at 1 July 2004)
Powerlink	As per transitional revenue determination in accordance with clause 11.6.12
ElectraNet	823.75 (as at 1 January 2003)
Transend	603.6 (as at 31 December 2003)
SP AusNet	1,835.60 (as at 1 January 2003)
Murraylink Transmission Company	102.96 (as at 1 October 2003)
Directlink	116.68 (as at 1 July 2005)

(2) The values in the table above are to be adjusted for the difference between:

- (i) any estimated capital expenditure that is included in those values for any part of a previous *regulatory control period*; and
- (ii) the actual capital expenditure for that part of the previous *regulatory control period*.

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.

(d) **Other transmission systems**

- (1) This paragraph (d) applies to a *transmission system* not referred to in paragraphs (c) or (e), when *prescribed transmission services* that are provided by means of, or in connection with, that system are to be regulated under a *revenue determination*.
- (2) The value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of the first *regulatory control period* for the relevant *Transmission Network Service Provider* is the prudent and efficient value of the assets that are used by the provider to provide those *prescribed transmission services* (but only to the extent that they are used to provide such services), as determined by the *AER*. In determining this value, the *AER* must have regard to the matters referred to in clause S6A.2.2.
- (3) The value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of any subsequent

regulatory control period must be determined by rolling forward the value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of the first *regulatory control period* in accordance with this schedule.

(e) **Former Market Network Services**

(1) This paragraph (e) applies to a *transmission system* where any services provided by means of, or in connection with, that *transmission system* are determined to be *prescribed transmission services* under clause 2.5.2(c).

(2) The value of the regulatory asset base for that *transmission system*, as at the beginning of the first *regulatory year* of the first *regulatory control period* for which those services are to be regulated under a *revenue determination*, is the amount that is determined by the *AER* as the lesser of:

(i) the prudent and efficient value of the assets that are used by the relevant *Transmission Network Service Provider* to provide those prescribed services (but only to the extent they are used to provide such services), such value being determined by the *AER* having regard to the matters referred to in clause S6A.2.2; and

(ii) the sum of:

(A) the net present value of the revenue that it is expected would be earned by the provider from the provision of those services, over the remaining life of the assets that are used by the provider to provide those services, if those services had not been determined to be *prescribed transmission services*; and

(B) to the extent that such market benefit is not included in the expected revenue referred to in clause S6A.2.1(e)(2)(ii)(A), the net present value of the market benefit to *Registered Participants* of the services being determined to be *prescribed transmission services* compared to being continued to be treated as services that are not *prescribed transmission services*,

reduced by the net present value of the total operating expenditure over the remaining life of the *transmission system* which the *AER* considers to be reasonably required in order to achieve the *operating expenditure objectives*.

For the purposes of clause S6A.2.1(e)(2)(ii)(B), the net present value of the market benefit is the present value of the market benefit less the present value of costs, as those terms are defined for the purposes of the *regulatory test* or *regulatory investment test for transmission* (as the case may be).

- (3) The value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of any subsequent *regulatory control period* must be determined by rolling forward the value of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of the first *regulatory control period* in accordance with this schedule.

(f) **Method of adjustment of value of regulatory asset base**

Except as otherwise provided in paragraph (c), (d) or (e), the value of the regulatory asset base for a *transmission system* as at the beginning of the first *regulatory year* of a *regulatory control period* must be calculated by adjusting the value (the **previous value**) of the regulatory asset base for that *transmission system* as at the beginning of the first *regulatory year* of the immediately preceding *regulatory control period* (the **previous control period**) as follows:

- (1) The previous value of the regulatory asset base must be increased by ~~the amount of all capital expenditure incurred during the previous control period, including any capital expenditure determined for that period under clause 6A.8.2(e)(1)(i) in relation to contingent projects where the revenue determination has been amended by the AER in accordance with clause 6A.8.2(h) (regardless of whether such capital expenditure is above or below the forecast capital expenditure for the period that is adopted for the purposes of the transmission determination (if any) for that period):~~

[6A.15]

(i) the lesser of:

[6A.15]

- (a) the total amount of capital expenditure incurred during the previous control period and, for any part of the previous control period for which actual capital expenditure is not available, the amount of the estimated capital expenditure determined by the AER for that part of the previous control period for which actual capital expenditure is not available (the **total capital expenditure**); and

[6A.15]

- (b) the total of the forecast capital expenditure determined in the *revenue determination* for the previous control period adjusted for any amount of capital expenditure forming part of an *approved pass through amount* or a *negative pass through amount* determined by the AER for the previous control period or, if an *approved pass through amount* or a *negative pass through amount* does not include all of the increase or decrease in capital expenditure that the AER considered should be passed through in relation to the relevant *pass through event*, that increase or decrease in capital expenditure (the **total forecast capital expenditure**); and

[6A.15]

(ii) 60% of the total capital expenditure that exceeds the total forecast capital expenditure. [6A.15]

Any amounts of related party margins and capitalised overheads included in the total capital expenditure must not exceed the amounts determined in accordance with how related party margins and capitalised overheads were included in the total of the forecast capital expenditure determined in the revenue determination for the previous control period. [6A.15] [6A.22]

Note: [6A.15]

The total of the forecast capital expenditure determined in a revenue determination may be subject to clauses 6A.7.1(f) and 6A.8.2(e)(3). [6A.15]

~~(2) The previous value of the regulatory asset base must be increased by the amount of the estimated capital expenditure approved by the AER for any part of the previous control period for which actual capital expenditure is not available, including any capital expenditure in relation to contingent projects where the total revenue cap has been amended by the AER in accordance with clause 6A.8.2(h).~~ [6A.15]

~~(3)~~(2) The previous value of the regulatory asset base must be adjusted for the difference between: [6A.15.1]

- (i) the estimated capital expenditure for any part of a previous regulatory control period where that estimated capital expenditure has been included in that value; and
- (ii) the actual capital expenditure for that part of the previous regulatory control period.

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.

~~(4)~~(3) ~~The previous value of the regulatory asset base must only be increased by actual or estimated capital expenditure to the extent that all such capital expenditure is~~The capital expenditure referred to in subparagraphs (1), (2) and (3) must only be capital expenditure as properly allocated to the provision of prescribed transmission services in accordance with the Cost Allocation Methodology for the relevant Transmission Network Service Provider. [6A.15.1] [6A.15.2]

~~(5)~~(4) The previous value of the regulatory asset base must be reduced by the amount of ~~actual~~ depreciation of the regulatory asset base during the previous control period, calculated in accordance with the rates and methodologies allowed in the transmission determination (if any) and taking into account the amount of capital expenditure (if any) included in any approved pass through amount or negative pass through amount for that period. [6A.15] [6A.15.1] [6A.30] [6A.40]

Note:

[6A.15]

The amount of depreciation of the regulatory asset base during the previous control period calculated in accordance with the rates and methodologies allowed in the transmission determination (if any) for that period may be subject to clauses 6A.7.1(f) and 6A.8.2(e)(3).

[6A.15]

~~(6)~~(5) The previous value of the regulatory asset base must be reduced by the disposal value of any asset where that asset has been disposed of during the previous control period.

[6A.15.1]

~~(7)~~(6) The previous value of the regulatory asset base must be reduced by the value of any asset where the AER determines that the value of that asset should be removed in accordance with clause S6A.2.3.

[6A.15.1]

~~(8)~~(7) Without prejudice to the application of any other provision of this paragraph (f), the previous value of the regulatory asset base may be increased by the inclusion of:

[6A.15.1]

(i) past capital expenditure that has not been included in that value because that capital expenditure was incurred in connection with the provision of services that are not *prescribed transmission services*, and in these circumstances, such capital expenditure must only be included to the extent the asset in respect of which that capital expenditure was incurred is subsequently used for the provision of *prescribed transmission services*; and

(ii) past capital expenditure that has not been included in that value, but only to the extent that such past capital expenditure:

(A) relates to an asset that is used for the provision of *prescribed transmission services*;

(B) is considered by the AER to be reasonably required in order to achieve one or more of the *capital expenditure objectives*;

(C) is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the relevant *Transmission Network Service Provider*; and

(D) has not otherwise been recovered.

...

Schedule 6A.4 Application of this Chapter to AEMO and declared transmission system operators

...

S6A.4.2 Exclusions, qualifications and modifications

(a) This Chapter will be read subject to the following exclusions, qualifications and modifications.

(b) **Part A (Introduction)**

Clause 6A.1.4(b) is excluded.

(c) **Part B (Transmission Determinations Generally)**

This Part applies subject to the following exclusions, qualifications and modifications:

Clause 6A.2.2 (Components of transmission determinations):

- (1) *A transmission determination for AEMO will not include a revenue determination.*
- (2) However, *AEMO* must have a revenue methodology (which will not be subject to the *AER's* approval) setting out the method for calculating *AEMO's maximum allowed revenue* for the provision of *prescribed transmission services* for each *regulatory year*.
- (3) In formulating its revenue methodology, or an amendment to its revenue methodology, *AEMO* must consult with the public.
- (4) *AEMO's maximum allowed revenue* consists of:
 - (i) so much of the *aggregate annual revenue requirement* of each *declared transmission system operator* for *AEMO's regulatory year* as relates to the provision to *AEMO* of *shared network capability services*; and
 - (ii) the other costs forecast to be incurred by *AEMO* in the same *regulatory year* for the provision of *prescribed shared transmission services*.

Note:

The costs under subparagraph (ii) might include the cost of *electricity network services* provided by a *declared transmission system operator* where those services are, from the standpoint of the operator, not *prescribed transmission services*.

- (5) The revenue methodology must include a description of:
 - (i) the categories of costs to be recovered; and
 - (ii) the method (which must be consistent with the *Cost Allocation Principles*) for allocating costs to *prescribed transmission services* and *negotiated transmission services*; and

- (iii) how under and over recovery of revenue in a particular *regulatory year* is to be treated.
- (6) The revenue methodology must be consistent with section 52 of the *National Electricity Law* and the provisions of Chapter 2 of these *Rules* applicable to *AEMO*.
- (7) *AEMO* must comply with its revenue methodology.
- (8) Before the commencement of the *regulatory year* to which *AEMO*'s revenue methodology applies, *AEMO* must *publish*:
 - (i) the revenue methodology; and
 - (ii) a report on how it has applied its revenue methodology for the purpose of determining prices for the ensuing *regulatory year*.
- (9) However, for the *regulatory year* commencing on 1 July 2009, *AEMO* may, instead of formulating and publishing its own revenue methodology, adopt as its revenue methodology relevant provisions of the *transmission determination* that would have applied to VENCORP for that *regulatory year* if the legislative and regulatory changes that took effect at the commencement of that *regulatory year* had not been made.

(d) **Part C (Regulation of Revenue – Prescribed Transmission Services)**

This Part is not applicable to *AEMO*.

This Part applies to a *declared transmission system operator* with the following modification of clause 6A.7.1:

If a *declared transmission system operator* is directed by *AEMO*, or is required by or agrees with a *Connection Applicant*, to construct an *augmentation*, clause 6A.7.1 applies as if:

- (1) the direction, requirement or agreement were an event in respect of which the *declared transmission system operator* were unconditionally authorised under clause 6A.7.1(a) to apply to the *AER* for revocation and substitution of a *revenue determination*; and
- (2) clause 6A.7.1(a)(1) to (7) were inapplicable to an application founded on such an event; and
- (3) the following were added after clause 6A.7.1(d):
 - (da) If a *declared transmission system operator* is directed by *AEMO*, or is required by or agrees with a *Connection Applicant*, to construct an *augmentation*, and the operator applies to the *AER* for revocation of a *revenue determination* on that ground, the *AER* must revoke the *revenue determination*.

(e) **Part D (Negotiated Transmission Services)**

Part D applies subject to the following qualification:

Clause 6A.9.1 applies to *AEMO* as if the reference in paragraph (1) to “principles and policies set out in the *Cost Allocation Methodology* for the relevant *Transmission Network Service Provider*” were a reference to principles and policies set out in *AEMO*'s revenue methodology.

(f) **Part E (Revenue determinations, negotiating frameworks and pricing methodologies)**

Part F applies subject to the following exclusions, qualifications and modifications:

1. Clause 6A.10.1 (Submission of proposal, framework, pricing methodology and information)

Clause 6A.10.1 applies to *AEMO* as if for paragraphs (a), (b) and (c) the following were substituted:

- (a) *AEMO* must, as and when required by the *AER*, submit to the *AER*:

- (1) a proposed *pricing methodology* relating to *shared transmission services* that are *prescribed TUOS services* or *prescribed common transmission services* (***prescribed shared transmission services***); and
- (2) a proposed *negotiating framework* relating to *shared transmission services* that are *negotiated transmission services*.

- (b) *AEMO*'s *pricing methodology*:

- (1) must be designed to recover no more than *AEMO*'s *maximum allowed revenue* for the provision of *prescribed shared transmission services*; and
- (2) must set out the principles on which prices for *prescribed shared transmission services* are to be determined.

- (c) Exact equivalence is not required between the costs of providing a service and the revenue derived from providing the service in a particular *regulatory year* if there are reasonable grounds to believe that costs will over time approximate revenue.

- (ca) The proposed *negotiating framework* must comply with the requirements of, and must contain or be accompanied by the information required by, the *submission guidelines* so far as they are relevant.

2. Clause 6A.10.2 (Submission guidelines)

The *submission guidelines* apply to *AEMO* only insofar as they are relevant to *AEMO's* proposed *negotiating framework*.

3. Clause 6A.11.1 (Preliminary examination and determination of non-compliance with relevant requirements)

Clause 6A.11.1 applies to *AEMO* only insofar as relevant to a *negotiating framework* or *pricing methodology*.

4. Clause 6A.11.2 (Resubmission of proposal, framework, pricing methodology or information)

Clause 6A.11.2 applies to *AEMO* only insofar as relevant to a *negotiating framework* or *pricing methodology*.

5. Clause 6A.11.3 (Resubmission of proposal, framework, pricing methodology or information)

Clause 6A.11.3 applies to *AEMO* only insofar as relevant to a *negotiating framework* or *pricing methodology*.

6. Rule 6A.12 (Draft decision and further consultation)

This *Rule* applies to *AEMO* only insofar as relevant to a decision on a *negotiating framework* or a *pricing methodology*.

7. Rule 6A.13 (Final decision)

This *Rule* applies to *AEMO* only insofar as relevant to a decision on a *negotiating framework* or a *pricing methodology*.

8. Rule 6A.14 (Requirements relating to draft and final decisions)

(a) This *Rule* applies to *AEMO* only insofar as relevant to a decision on a *negotiating framework* or a *pricing methodology*.

(b) Clause ~~6A.14.3(e)~~6A.14.3(d) (which requires the *AER* to approve a *regulatory control period* of 5 *regulatory years*) is inapplicable to *AEMO*.

[6A.36.2]

Note:

The *Rule* is thus largely inapplicable. Of clause 6A.14.1 only paragraphs ~~(6), (7) and (8)~~(3)(v), (3)(vi) and (4) are applicable. Clause 6A.14.2 requires the *AER* to give reasons setting out the basis and rationale of its decision. This requirement is relevant to a decision on a pricing methodology or negotiating framework but the matters of detail mentioned in paragraphs (1) to (4) would, as a general rule, be irrelevant to such a decision. Of clause 6A.14.3 only paragraphs ~~(f) to (g)~~(d) to (g) would be relevant.

[6A.36.2]

9. Rule 6A.15 (Revocation [and substitution or amendment](#) of revenue determination or amendment of pricing methodology for wrong information or error)

This *Rule* applies to *AEMO* only insofar as relevant to the amendment of a *pricing methodology*.

10. Rule 6A.16 (Miscellaneous)

This *Rule* applies as if it included the following additional paragraphs:

- (g) *AEMO* must, on or before 15 May in each year, *publish* its prices for *prescribed shared transmission services* for its next *regulatory year*.
- (h) A *declared transmission system operator* must notify *AEMO* of its revenue requirement for the provision of *shared network capability services* for *AEMO's next regulatory year* in sufficient time to enable *AEMO* to calculate prices in accordance with the approved *pricing methodology* and meet its obligations under paragraph (g).

(g) **Part F (Information Disclosure)**

This Part is not applicable to *AEMO*.

(h) **Part G (Cost Allocation)**

AEMO's revenue methodology must be consistent with the *Cost Allocation Principles* set out in this Part: see clause S6A.4.2(c)(5). This Part applies to *AEMO* only insofar as it is relevant to that requirement.

(i) **Part H (Transmission Consultation Procedures)**

No exclusions, qualifications or modifications are prescribed.

(j) **Part I (Ring-Fencing Arrangements for Transmission Network Service Providers)**

This Part is not applicable to *AEMO*.

(k) **Part J (Prescribed Transmission Services – Regulation of Pricing)**

Part J applies subject to the following exclusions, qualifications and modifications:

1. Rule 6A.23 (Pricing Principles for Prescribed Transmission Services)

Clause 6A.23.3 applies as if it included the following additional paragraphs:

- (g) In relation to the *declared transmission system* of an *adoptive jurisdiction*:

- (1) *AEMO* is responsible for allocating the *ASRR* for *prescribed TUOS services* and *prescribed common transmission services*; and
 - (2) the relevant *declared transmission system operator* is responsible for allocating the *ASRR* for *prescribed entry services* and *prescribed exit services*.
- (h) *A declared transmission system operator* must:
- (1) allocate costs between *shared network capability services* and *prescribed connection services*; and
 - (2) notify *AEMO* of its allocation (and the basis on which it was made) in sufficient time to calculate prices for *AEMO's next regulatory year* in accordance with its *pricing methodology*; and
 - (3) provide *AEMO* (as and when requested by *AEMO*) with the information *AEMO* reasonably requires to allocate *ASRR* for *prescribed TUOS services* and *prescribed common transmission services*.

Clause 6A.23.4 applies as if it included the following additional paragraph:

- (k) *A declared transmission system operator* is not required to develop separate prices for recovery of the *ASRR* referable to *shared network capability services*.

2. Rule 6A.24 (Pricing Methodology)

Clause 6A.24.1 applies as if the following paragraphs were substituted for paragraphs (e) and (f):

- (e) Subject to express provisions of these *Rules* to the contrary, a *pricing methodology*:
 - (1) applies for the duration of the relevant *regulatory control period*; and
 - (2) may not be amended during the *regulatory control period*.
- (f) However, the *AER* may, on an application made by *AEMO* during the *regulatory year* commencing on 1 July 2009, amend *AEMO's pricing methodology* as it applies to the setting of prices for the *regulatory year* commencing on 1 July 2010 and later *regulatory years*.

3. Clause 6A.26.1 (Agreements for prudent discounts for prescribed transmission services)

Clause 6A.26.1 applies as if:

- (1) the power under paragraph (b) to agree to charge lower prices for *prescribed TUOS services* and *prescribed common transmission services* were vested in *AEMO* to the exclusion of the relevant *declared transmission system operator*; and
- (2) additional provisions to the following effect were included:
 - (i) *AEMO* must obtain the written consent of the relevant *declared transmission system operator* before exercising that power;
 - (ii) the relevant *declared transmission system operator* and *AEMO* must negotiate in good faith whenever either of them asks the other to consider a proposal for the exercise of that power in a particular manner.

4. Clause 6A.26.2 (Application to *AER* for approval of proposed prudent discount amounts)

Clause 6A.26.2 (k) is not applicable to *AEMO*.

5. Clause 6A.29.1 (Multiple Transmission Network Service Providers within a region)

Clause 6A.29.1 applies as if it included the following additional paragraph:

- (g) *AEMO* is (without appointment under clause 6A.29.1(a)) the *Co-ordinating Network Service Provider* for a *region* that includes the whole or the major part of the *declared shared network*.

- (l) **Part K (Commercial arbitration for disputes about terms and conditions of access for prescribed and negotiated transmission services)**

This Part does not apply to a dispute that can be resolved by the *AER* under section 50H of the *National Electricity Law*.

- (m) **Schedule S6A.1 (Contents of Revenue Proposals)**

This Schedule is not applicable to *AEMO*.

- (n) **Schedule S6A.2 (Regulatory Asset Base)**

This Schedule is not applicable to *AEMO*.

Clause S6A.2.3(a)(3)(i) is not applicable to a *declared transmission system operator*.

(o) **Schedule S6A.3 (CRNP methodology and modified CRNP methodology)**

This Schedule applies without exclusion, qualification or modification.

3 Chapter 10

3.1 Table of draft rules

Table 3.1 Proposed rule changes: Chapter 10

No.	Existing rule(s)	Proposed rule(s)	Remarks
[10.1]	Definition: 'capital expenditure criteria'	Deleted	Revision to remove this definition consequential to [6.8] and [6A.8].
[10.2]	Definition: 'capital expenditure factors'	Definition: 'capital expenditure factors'	Revision to this definition consequential to [6.10], [6.11], [6.12], [6.13], [6.14], [6A.10], [6A.11], [6A.12], [6A.13], and [6A.14].
[10.3]	Definition: 'operating expenditure criteria'	Deleted	Revision to remove this definition consequential to [6.1] and [6A.1].
[10.4]	Definition: 'operating expenditure factors'	Definition: 'operating expenditure factors'	Revision to this definition consequential to [6.3], [6.4], [6.5], [6.6], [6.7], [6A.3], [6A.4], [6A.5], [6A.6], and [6A.7].
[10.5]	Definition: 'contingent project', 'proposed contingent project', 'proposed contingent project capital expenditure', 'trigger event'	Definition: 'contingent project', 'proposed contingent project', 'proposed contingent project capital expenditure', 'trigger event', 'Distribution Contingent Project and Contingent Program Guidelines', 'Transmission Contingent Project Guidelines'	Revisions to these definitions consequential to [6.18] and [6A.15].
[10.6]	Definition: 'materially', 'positive change event', 'negative change event'	Definition: 'materially', 'positive change event', 'negative change event'	Revisions to these definitions consequential to [6.26].

[10.7]	–	Definition: ‘related party margins’, ‘related party’, ‘overheads’	Revisions to include these new definitions consequential to [6.19] and [6A.22].
[10.8]	Definition: ‘statement of regulatory intent’	Definition: ‘statement on the cost of capital’	Revisions to replace the definition of statement of regulatory intent with the statement on the cost of capital, consequential to [6.22] and [6A.23].

3.2 Draft rules

10. Glossary

capital expenditure criteria [10.1]

~~For a Transmission Network Service Provider — the matters listed in clause 6A.6.7(e)(1)–(3).~~ [10.1]

~~For a Distribution Network Service Provider — the matters listed in clause 6.5.7(e)(1)–(3).~~ [10.1]

capital expenditure factors

For a Transmission Network Service Provider – the factors listed in clause ~~6A.6.7(e)(1)–(10)~~6A.6.7(d)(1)–(11). [10.2]

For a Distribution Network Service Provider – the factors listed in clause ~~6.5.7(e)(1)–(10)~~6.5.7(d)(1)–(10). [10.2]

contingent project

In relation to a revenue determination, a ~~proposed~~contingent project that is ~~determined~~identified by the AER, in accordance with clause ~~6A.8.1(b)~~6A.8.1(e); ~~to be a contingent project for the purposes of that revenue determination.~~ [10.5]

In relation to a distribution determination, a contingent project that is identified by the AER under clause 6.6A.1(e). [10.5]

Distribution Contingent Project Guidelines [10.5]

The Guidelines referred to in clause 6.6A.3. [10.5]

materially

For the purposes of: [10.6]

(a) the application of clause 6A.7.3, an event (other than a network support event) results in a Transmission Network Service Provider incurring materially higher or materially lower costs if the change in costs (as opposed to the revenue impact) that the Transmission Network Service Provider has incurred and is likely to incur in any regulatory year of the regulatory control period, as a result of that event, exceeds 1% of the maximum allowed revenue for the Transmission Network Service Provider for that regulatory year; or [10.6]

(b) the application of clause 6.6.1, an event results in a Distribution Network Service Provider incurring materially higher or materially lower costs if the change in costs (as opposed to the revenue impact) that the Distribution Network Service Provider has incurred and is likely to incur in any regulatory year of the regulatory control period, as a result of that event, exceeds 1% of the annual revenue requirement for the Distribution Network Service Provider for that regulatory year. [10.6]

In other contexts, the word has its ordinary meaning.

negative change event

For a *Transmission Network Service Provider*, a *pass through event* which entails the *Transmission Network Service Provider* incurring *materially* lower costs in providing *prescribed transmission services* than it would have incurred but for that event.

For a *Distribution Network Service Provider*, a *pass through event* that ~~materially~~materially reduces the costs of providing *direct control services*.

[10.6]

~~***operating expenditure criteria***~~

[10.3]

~~For a *Transmission Network Service Provider* – the matters listed in clause 6A.6.6(e)(1)–(3).~~

[10.3]

~~For a *Distribution Network Service Provider* – the matters listed in clause 6.5.6(e)(1)–(3).~~

[10.3]

~~***operating expenditure factors***~~(3)

[10.4]

~~For a *Transmission Network Service Provider* – the factors listed in clause 6A.6.6(e)(1)–(10)~~6A.6.6(d)(1)–(11).

[10.4]

~~For a *Distribution Network Service Provider* – the factors listed in clause 6.5.6(e)(1)–(10)~~6.5.6(d)(1)–(8).

[10.4]

overheads

[10.7]

The ongoing administrative expenses of a *Distribution Network Service Provider* or a *Transmission Network Service Provider* (or a *related party*, if relevant) which cannot be attributed to any specific business activity but are necessary for the *Distribution Network Service Provider* or its *related party* to function (e.g. rent, insurance).

[10.7]

positive change event

For a *Transmission Network Service Provider*, a *pass through event* which entails the *Transmission Network Service Provider* incurring *materially* higher costs in providing *prescribed transmission services* than it would have incurred but for that event, but does not include a *contingent project* or an associated *trigger event*.

For a *Distribution Network Service Provider*, a *pass through event* that ~~materially~~materially increases the costs of providing *direct control services*.

[10.6]

proposed contingent capital expenditure

The ~~total~~ forecast capital expenditure for ~~the relevant~~a *proposed contingent project*, ~~as included in the *Revenue Proposal* for that project.~~

[10.5]

proposed contingent project

~~A~~In relation to a Revenue Proposal, a proposal by a Transmission Network Service Provider as part of a Revenue Proposal for a project to be ~~determined~~identified by the AER as a *contingent project* ~~for the purposes of a revenue determination in accordance with~~under clause ~~6A.8.1(b)~~6A.8.1(e). [10.5]

In relation to a building block proposal, a proposal by a Distribution Network Service Provider for a project to be identified by the AER as a contingent project under clause 6.6A.1(e). [10.5]

related party [10.7]

A party with a degree of or total common ownership, either directly or indirectly, with the relevant Transmission Network Service Provider or Distribution Network Service Provider. [10.7]

related party margins [10.7]

Profit margins or management fees paid directly or indirectly to a related party of a Transmission Network Service Provider or Distribution Network Service Provider which are not an actual incurred cost of the related party. [10.7]

statement of regulatory intent [10.8]

~~A statement issued by the AER under clause 6.5.4(e).~~ [10.8]

statement on the cost of capital [10.8]

A statement issued by the AER under clause 6.5.4(c) or 6A.6.2(e). [10.8]

trigger event [10.5]

In relation to a *proposed contingent project* or a *contingent project*, a specific condition or event ~~described~~referred to in clause 6A.8.1(c) or 6.6A.1(d), the occurrence of which, during the relevant *regulatory control period*, may result in the amendment of a *revenue determination* under clause 6A.8.2 or a distribution determination under clause 6.6A.2. [10.5]

Transmission Contingent Project Guidelines [10.5]

The Guidelines referred to in clause 6A.8.3. [10.5]

4 Chapter 11

4.1 Table of draft rules

Table 4.1 Proposed rule changes: transitional arrangements for the cost of capital and the roll forward of the regulatory asset base

No.	Current rule(s)	Proposed rule(s)	Remarks
[11.1]	–	11.43.1	New clause 11.43.1 setting out the definitions used in new clauses 11.43.2, 11.43.3, 11.43.4, 11.43.5 and 11.43.6.
[11.2]	–	11.43.2	New clause 11.43.2 to provide that the proposed changes to clause S6A.2.1(f) do not apply to for the next set of transmission determinations.
[11.3]	–	11.43.3	New clause 11.43.3 to provide that the proposed changes to clause S6.2.1(e) do not apply to for the next set of distribution determinations.
[11.4]	–	11.43.4	New clause 11.43.4 to: <ul style="list-style-type: none">– provide that the proposed clause 6.5.4(f) does not apply, and that the AER is to apply the statement on the cost of capital to; and– provide that a building block proposal must include a period for the purposes of calculating the nominal risk free rate for, the NSW and the ACT distribution determinations for the regulatory control period commencing on 1 July 2015.
[11.5]	–	11.43.5	New clause 11.43.5 to: <ul style="list-style-type: none">– provide that the proposed clause 6A.6.2(h) does not apply, and that the AER is to apply the statement on the cost of capital, to; and– provide that a revenue proposal must include a period for the purposes of calculating the nominal risk free rate for, the NSW and Tasmanian transmission determinations for the regulatory control period commencing on 1 July 2015.

4.2 Draft rules

11. Savings and Transitional Rules

Part ZM Economic Regulation of Distribution and Transmission Services (201# amendments)

11.43 Rules consequential on the making of the National Electricity Amendment (Economic Regulation of Distribution and Transmission Services) Rule 201#

11.43.1 Definitions

For the purposes of this rule 11.43:

relevant distribution determination means the distribution determination for the *Distribution Network Service Providers* in:

- (a) Victoria for the *regulatory control period* commencing on 1 January 2016;
- (b) New South Wales for the *regulatory control period* commencing on 1 July 2015;
- (c) the Australian Capital Territory for the *regulatory control period* commencing on 1 July 2015;
- (d) Queensland for the *regulatory control period* commencing on 1 July 2015;
- (e) South Australia for the *regulatory control period* commencing on 1 July 2015; and
- (f) Tasmania for the *regulatory control period* commencing on 1 July 2012.

relevant transmission determination means the *transmission determination* for the *Transmission Network Service Providers* in:

- (a) Victoria for the *regulatory control period* commencing on 1 April 2014;
- (b) New South Wales for the *regulatory control period* commencing on 1 July 2015;
- (c) the Australian Capital Territory for the *regulatory control period* commencing on 1 July 2015;
- (d) Queensland for the *regulatory control period* commencing on 1 July 2012;
- (e) South Australia for the *regulatory control period* commencing on 1 July 2013; and
- (f) Tasmania for the *regulatory control period* commencing on 1 July 2015.

11.43.2 Adjustments to the value of the regulatory asset base in a relevant transmission determination [11.2]

For the purposes of adjusting the value of the regulatory asset base for the beginning of the first *regulatory year* of the *regulatory control period* under rule S6A.2 in a relevant transmission determination: [11.2]

(a) Clause S6A.2.1(f)(1) is to be read as: [11.2]

‘The previous value of the regulatory asset base must be increased by the amount of all capital expenditure incurred during the previous control period, including any capital expenditure determined for that period under clause 6A.8.2(e)(1)(i) in relation to *contingent projects* where the *revenue determination* has been amended by the *AER* in accordance with clause 6A.8.2(h) (regardless of whether such capital expenditure is above or below the forecast capital expenditure for the period that is adopted for the purposes of the *transmission determination* (if any) for that period).’. [11.2]

(b) Clause S6A.2.1(f)(2) is to be read as: [11.2]

‘The previous value of the regulatory asset base must be increased by the amount of the estimated capital expenditure approved by the *AER* for any part of the previous control period for which actual capital expenditure is not available, including any capital expenditure in relation to *contingent projects* where the *total revenue cap* has been amended by the *AER* in accordance with clause 6A.8.2(h).’. [11.2]

(c) Clause S6A.2.1(f)(3) is to be read as: [11.2]

‘The previous value of the regulatory asset base must be adjusted for the difference between: [11.2]

(i) the estimated capital expenditure for any part of a previous regulatory control period where that estimated capital expenditure has been included in that value; and [11.2]

(ii) the actual capital expenditure for that part of the previous regulatory control period. [11.2]

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.’. [11.2]

(d) Clause S6A.2.1(f)(4) is to be read as: [11.2]

‘The previous value of the regulatory asset base must only be increased by actual or estimated capital expenditure to the extent that all such capital expenditure is properly allocated to the provision of *prescribed transmission services* in accordance with the *Cost Allocation Methodology* for the relevant *Transmission Network Service Provider*.’. [11.2]

(e) Clause S6A.2.1(f)(5) is to be read as:

‘The previous value of the regulatory asset base must be reduced by the amount of actual depreciation of the regulatory asset base during the previous control period, calculated in accordance with the rates and methodologies allowed in the *transmission determination* (if any) for that period.’. [11.2]

11.43.3 Adjustments to the value of the regulatory asset base in a relevant distribution determination [11.3]

For the purposes of adjusting the value of the regulatory asset base for the beginning of the first *regulatory year* of the *regulatory control period* under rule S6.2 in a relevant distribution determination: [11.3]

(a) Clause S6.2.1(e)(1) is to be read as: [11.3]

‘The previous value of the regulatory asset base must be increased by the amount of all capital expenditure incurred during the previous control period.’. [11.3]

(b) Clause S6.2.1(e)(2) is to be read as: [11.3]

‘The previous value of the regulatory asset base must be increased by the amount of the estimated capital expenditure approved by the *AER* for any part of the previous control period for which actual capital expenditure is not available.’. [11.3]

(c) Clause S6.2.1(e)(3) is to be read as: [11.3]

‘The previous value of the regulatory asset base must be adjusted for the difference between: [11.3]

(i) the estimated capital expenditure for any part of a previous regulatory control period where that estimated capital expenditure has been included in that value; and [11.3]

(ii) the actual capital expenditure for that part of the previous regulatory control period. [11.3]

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.’. [11.3]

(d) Clause S6.2.1(e)(4) is to be read as: [11.3]

‘The previous value of the regulatory asset base must only be increased by actual or estimated capital expenditure to the extent that all such capital expenditure is properly allocated to the provision of *standard control services* in accordance with the *Cost Allocation Methodology* for the relevant *Distribution Network Service Provider*.’. [11.3]

11.43.4 Statement on the Cost of Capital to be applied in the NSW and the ACT distribution determinations for the regulatory control period commencing on 1 July 2015 [11.4]

In relation to a relevant distribution determination in New South Wales or the Australian Capital Territory: [11.4]

(a) Clause 6.5.4(f) does not apply for the purposes of a *building block proposal*. [11.4]

(b) A *building block proposal* must specify the commencement and length of the period nominated by the *Distribution Network Service Provider*: [11.4]

(i) for the purposes of calculating the nominal risk free rate referred to in clause 6.5.2(b)(1) for the *regulatory control period* on a moving average basis from the annualised yield on Commonwealth Government bonds with a maturity of 10 years using the indicative mid rates published by the Reserve Bank of Australia; and [11.4]

(ii) of which the start date and end date for the period may be kept confidential, but only until the expiration of the period. [11.4]

(c) For the purposes of making the constituent decision referred to in clause 6.12.1(5), the *AER* must apply the prevailing *statement on the cost of capital* issued under clause 6.5.4(c). [11.4]

11.43.5 Statement on the Cost of Capital to be applied in the NSW and Tasmanian transmission determinations for the regulatory control period commencing on 1 July 2015 [11.5]

In relation to a relevant transmission determination in New South Wales or Tasmania: [11.5]

(a) Clause 6A.6.2(h) does not apply for the purposes of a *Revenue Proposal*. [11.5]

(b) A *Revenue Proposal* must specify the commencement and length of the period nominated by the *Distribution Network Service Provider*: [11.5]

(i) for the purposes of calculating the nominal risk free rate referred to in clause 6A.6.2(b)(1) for the *regulatory control period* on a moving average basis from the annualised yield on Commonwealth Government bonds with a maturity of 10 years using the indicative mid rates published by the Reserve Bank of Australia; and [11.5]

(ii) of which the start date and end date for the period may be kept confidential, but only until the expiration of the period. [11.5]

(b) For the purposes of determining the *annual building block revenue requirement* referred to in clause 6A.5.4, the *AER* must apply the prevailing *statement on the cost of capital* issued under clause 6A.6.2(e). [11.5]