



## **National Electricity Amendment (Replacement expenditure planning arrangements) Rule 2017 No. 5**

under the National Electricity Law to the extent applied by:

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

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

John Pierce  
Chairman  
Australian Energy Market Commission

## **National Electricity Amendment (Replacement expenditure planning arrangements) Rule 2017 No. 5**

### **1 Title of Rule**

This Rule is the *National Electricity Amendment (Replacement expenditure planning arrangements) Rule 2017 No.5*.

### **2 Commencement**

Schedules 1 and 3 commence operation on 18 July 2017.

Schedule 2 commences operation on 18 September 2017.

### **3 Amendment of the National Electricity Rules**

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

### **4 Amendment of the National Electricity Rules**

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

### **5 Savings and Transitional Amendments to the National Electricity Rules**

The National Electricity Rules are amended as set out in Schedule 3.

## **Schedule 1            Amendment to the National Electricity Rules**

(Clause 3)

### **[1] Clause 5.10.2      Definitions**

In clause 5.10.2, insert the following new definition:

**de-rate** means, in respect of a *Network Service Provider*, a reduction in the *network capability* of a *network element* in the *network* of that *Network Service Provider*.

### **[2] Clause 5.12.1      Transmission annual planning review**

In clause 5.12.1(b)(4), omit "." and substitute ";".

### **[3] Clause 5.12.1      Transmission annual planning review**

After clause 5.12.1(b)(4), insert:

- (5) consider the condition of *network* assets; and
- (6) consider the potential for replacements of *network* assets, or *non-network options* to replacements of *network* assets, that are likely to provide a net economic benefit to all those who produce, consume and transport electricity in the *market*.

### **[4] Clause 5.12.2      Transmission Annual Planning Report**

After clause 5.12.2(c)(1), insert:

- (1A) for all *network* asset retirements, and for all *network* asset de-ratings that would result in a *network constraint*, that are planned over the minimum planning period specified in clause 5.12.1(c), the following information in sufficient detail relative to the size or significance of the asset:
  - (i) a description of the *network* asset, including location;
  - (ii) the reasons, including methodologies and assumptions used by the *Transmission Network Service Provider* for deciding that it is necessary or prudent for the *network* asset to be retired or de-rated, taking into account factors such as the condition of the *network* asset;
  - (iii) the date from which the *Transmission Network Service Provider* proposes that the *network* asset will be retired or de-rated; and

- (iv) if the date to retire or de-rate the *network* asset has changed since the previous *Transmission Annual Planning Report*, an explanation of why this has occurred;
- (1B) for the purposes of subparagraph (1A), where two or more *network* assets are:
  - (i) of the same type;
  - (ii) to be retired or de-rated across more than one location;
  - (iii) to be retired or de-rated in the same calendar year; and
  - (iv) each expected to have a replacement cost less than \$200,000 (as varied by a cost threshold determination),those assets can be reported together by setting out in the *Transmission Annual Planning Report*:
  - (v) a description of the *network* assets, including a summarised description of their locations;
  - (vi) the reasons, including methodologies and assumptions used by the *Transmission Network Service Provider*, for deciding that it is necessary or prudent for the *network* assets to be retired or de-rated, taking into account factors such as the condition of the *network* assets;
  - (vii) the date from which the *Transmission Network Service Provider* proposes that the *network* assets will be retired or de-rated; and
  - (viii) if the calendar year to retire or de-rate the *network* assets has changed since the previous *Transmission Annual Planning Report*, an explanation of why this has occurred;

#### **[5] Clause 5.12.2 Transmission Annual Planning Report**

In clause 5.12.2(c)(4)(iv), after “proposals for *augmentation*” insert “, replacement of *network* assets,”.

#### **[6] Clause 5.12.2 Transmission Annual Planning Report**

In clause 5.12.2(c)(5), after “*augmentations* to the *network*” insert “ and proposed replacements of *network* assets”.

#### **[7] Clause 5.12.2 Transmission Annual Planning Report**

In clause 5.12.2(c)(6), after “proposed *augmentations*” insert “ and proposed replacements of *network* assets”.

**[8] Clause 5.12.2 Transmission Annual Planning Report**

Omit clause 5.12.2(c)(7) and substitute:

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

**[9] Clause 5.12.2 Transmission Annual Planning Report**

In clause 5.12.2(c)(10), omit "and".

**[10] Clause 5.12.2 Transmission Annual Planning Report**

After clause 5.12.2(c), insert:

- (d) A *declared transmission system operator* for all or part of the *declared shared network* must provide to *AEMO* within a reasonable period of receiving a request, such information as reasonably requested by *AEMO* to enable it to comply with:
  - (1) clause 5.12.1(b)(5);
  - (2) clause 5.12.1(b)(6);
  - (3) clause 5.12.2(c)(1A);
  - (4) clauses 5.12.2(c)(4), (5) and (6) as they relate to the proposed replacement of *network* assets; and
  - (5) clause 5.12.2(c)(7).

**[11] Clause 5.15.3 Review of costs thresholds**

Omit clauses 5.15.3(a) and (b), excluding the heading, and substitute:

- (a) Every 3 years the *AER* must undertake a review of the changes in the input costs used to calculate the estimated capital costs in relation to *transmission* investment as referred to in paragraph (b), for the purposes of determining whether the cost thresholds specified in paragraph (b) need to be changed to maintain the

appropriateness of the cost thresholds over time by adjusting those cost thresholds to reflect any increase or decrease in the input costs since:

- (1) July 2009 in respect of the first cost threshold review; and
- (2) the date of the previous review in respect of every subsequent cost threshold review.

**Note**

The cost thresholds are regularly reviewed by the *AER* under paragraph (b). The current thresholds are specified in the latest cost threshold determination available on the *AER*'s website [www.aer.gov.au](http://www.aer.gov.au).

- (b) For the purposes of paragraph (a), the cost thresholds for review are the following amounts:
  - (1) **[Deleted]**
  - (1A) of less than \$200,000 referred to in clause 5.12.2(c)(1B)(iv);
  - (2) of less than \$5 million referred to in clause 5.16.3(a)(2);
  - (3) **[Deleted]**
  - (4) of less than \$5 million referred to in clause 5.16.3(a)(5);
  - (5) of less than \$35 million referred to in clause 5.16.4(z1)(1); and
  - (6) in excess of \$5 million in relation to investment in transmission assets of the type referred to in the definition of potential transmission project in clause 5.10.2.

**[12] Clause 5.15.3 Review of costs thresholds**

In clause 5.15.3(c)(2), omit “a refurbishment or replacement need, or”.

**[13] Clause 5.15.3 Review of costs thresholds**

Omit clause 5.15.3(d)(2) and substitute:

- (2) **[Deleted]**;

**[14] Clause 5.15.3 Review of costs thresholds**

After clause 5.15.3(d)(4) insert:

- (4A) of less than \$200,000 referred to in S5.8(b2)(4);

**[15] Schedule 5.8 Distribution Annual Planning Report**

After clause S5.8(b) insert:

- (b1) for all *network* asset retirements, and for all *network* asset de-ratings that would result in a system limitation, that are planned over the forward planning period, the following information in sufficient detail relative to the size or significance of the asset:
  - (1) a description of the *network* asset, including location;
  - (2) the reasons, including methodologies and assumptions used by the *Distribution Network Service Provider*, for deciding that it is necessary or prudent for the *network* asset to be retired or de-rated, taking into account factors such as the condition of the *network* asset;
  - (3) the date from which the *Distribution Network Service Provider* proposes that the *network* asset will be retired or de-rated; and
  - (4) if the date to retire or de-rate the *network* asset has changed since the previous *Distribution Annual Planning Report*, an explanation of why this has occurred;
- (b2) for the purposes of subparagraph (b1), where two or more *network* assets are:
  - (1) of the same type;
  - (2) to be retired or de-rated across more than one location;
  - (3) to be retired or de-rated in the same calendar year; and
  - (4) each expected to have a replacement cost less than \$200,000 (as varied by a cost threshold determination),

those assets can be reported together by setting out in the *Distribution Annual Planning Report*:

- (5) a description of the *network* assets, including a summarised description of their locations;
- (6) the reasons, including methodologies and assumptions used by the *Distribution Network Service Provider*, for deciding that it is necessary or prudent for the *network* assets to be retired or de-rated, taking into account factors such as the condition of the *network* assets;
- (7) the date from which the *Distribution Network Service Provider* proposes that the *network* assets will be retired or de-rated; and
- (8) if the calendar year to retire or de-rate the *network* assets has changed since the previous *Distribution Annual Planning Report*, an explanation of why this has occurred;

## **[16] Schedule 5.8      Distribution Annual Planning Report**

Omit clause S5.8(g) and substitute:

- (g) a summary of all committed investments to be carried out within the forward planning period with an estimated capital cost of \$2 million or more (as varied by a cost threshold determination) that are to address an urgent and unforeseen *network* issue as described in clause 5.17.3(a)(1), including:
  - (1) a brief description of the investment, including its purpose, its location, the estimated capital cost of the investment and an estimate of the date (month and year) the investment is expected to become operational;
  - (2) a brief description of the alternative options considered by the *Distribution Network Service Provider* in deciding on the preferred investment, including an explanation of the ranking of these options to the committed project. Alternative options could include, but are not limited to, *generation* options, demand side options, and options involving other *distribution* or *transmission networks*;

## **[17] Schedule 5.8      Distribution Annual Planning Report**

Omit clause S5.8(m), and insert:

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



## Schedule 2            Amendment to the National Electricity Rules

(Clause 4)

### [1] Clause 5.1.2            Purpose and Application

Omit clause 5.1.2(f) and insert:

(f)    Subject to clause (f1), a reference in:

- (1)    the definition of RIT-T proponent in clause 5.10.2;
- (2)    clause 5.16.4;
- (3)    clause 5.16.5;
- (4)    rule 5.18; and
- (5)    rule 5.19;

to a *Transmission Network Service Provider* will, in relation to the *declared transmission system* of an *adoptive jurisdiction*, be construed as a reference to *AEMO*.

(f1)   A reference in:

- (1)    the definition of RIT-T proponent in clause 5.10.2;
- (2)    clause 5.16.4; and
- (3)    clause 5.16.5,

to a *Transmission Network Service Provider* will, in relation to the *declared transmission system* of an *adoptive jurisdiction*, be construed as a reference to the relevant *declared transmission system operator* where:

- (4)    the relevant RIT-T project (as defined in clause 5.10.2) is to address an *identified need* that arises from the retirement or de-rating of *network* assets; and
- (5)    a credible option (as defined in clause 5.10.2) for that RIT-T project (as defined in clause 5.10.2) is replacement of *network* assets.

### [2] Clause 5.10.2           Definitions

In clause 5.10.2, omit the definition for **replacement transmission network asset**.

**[3] New Rule 5.14A Joint planning in relation to retirement or de-ratings of network assets forming part of the Declared Shared Network**

After rule 5.14, insert:

**5.14A Joint planning in relation to retirement or de-ratings of network assets forming part of the Declared Shared Network**

- (a) In the case of a proposed retirement or de-rating of a *network* asset that forms part of the *declared shared network* of an *adoptive jurisdiction*, *AEMO* and the relevant *declared transmission system operator* must conduct joint planning in respect of that proposed retirement or de-rating if an *identified need* arises from that proposed retirement or de-rating.
- (b) In conducting joint planning under paragraph (a), *AEMO* and the *declared transmission system operator* must use best endeavours to work together to identify the most efficient options to address the relevant *identified need*.

**[4] Clause 5.16.3 Investments subject to the regulatory investment test for transmission**

Omit clauses 5.16.3(a)(3) and (4) and substitute:

- (3) the proposed expenditure relates to maintenance and is not intended to *augment* the *transmission network* or replace *network* assets;
- (4) [Deleted];

**[5] Clause 5.16.3 Investments subject to the regulatory investment test for transmission**

In clause 5.16.3(a)(8), omit “(including replacement transmission network assets)” and substitute “or replace *network* assets”.

**[6] Clause 5.16.4 Regulatory investment test for transmission procedures**

In clause 5.16.4(z1)(4), omit “,” and substitute “.”.

**[7] Clause 5.16.4 Regulatory investment test for transmission procedures**

After clause 5.16.4(z2) insert:

**Reapplication of regulatory investment test for transmission**

(z3) If:

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

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

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

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

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

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

**[8] Clause 5.16.4 Regulatory investment test for transmission procedures**

After clause 5.16.4(z5) insert:

**Declared transmission system operator may request assistance from AEMO to conduct market benefits assessments for replacement RIT-T projects**

(z6) Where a RIT-T proponent is a *declared transmission system operator* within a *declared shared network*, it may in relation to RIT-T projects to address an *identified need* that arises from the retirement or de-rating of *network* assets, request assistance and information from *AEMO* as reasonably required for it to consider and conduct market benefits assessments as required by:

- (1) clause 5.16.4(b)(6)(iii);
- (2) clause 5.16.4(k)(3) to (k)(6); and
- (3) clause 5.16.4(v).

(z7) *AEMO* must provide assistance and information requested under paragraph (z6) to the *declared transmission system operator* within a reasonable period of time.

**[9] Clause 5.17.3 Projects subject to the regulatory investment test for distribution**

In clause 5.17.3(a)(5) omit “refurbishment or replacement” and substitute “maintenance”.

**[10] Clause 5.17.3 Projects subject to the regulatory investment test for distribution**

In clause 5.17.3(a)(5) omit “; or” and insert “or replace *network* assets;”.

**[11] Clause 5.17.3 Projects subject to the regulatory investment test for distribution**

Omit clause 5.17.3(a)(6) and substitute “[Deleted]; or”.

## Schedule 3 Savings and Transitional Amendments to the National Electricity Rules

(Clause 5)

### [1] Chapter 11 Savings and Transitional Amendments to the National Electricity Rules

In Chapter 11, after Part ZZZ, insert:

#### Part ZZZA Replacement expenditure planning arrangements

##### 11.99 Rules consequential on the making of the National Electricity Amendment (Replacement expenditure planning arrangements) Rule 2017

###### 11.99.1 Definitions

For the purposes of this rule 11.99:

**affected DNSP** means each of the following *Distribution Network Service Providers*:

- (a) Energex Limited ACN 078 849 055 or any successor business; and
- (b) Ergon Energy Corporation Limited ACN 087 646 062 or any successor business.

**Amending Rule** means the National Electricity Amendment (Replacement expenditure planning arrangements) Rule 2017.

**excluded project** means, in respect of a *Network Service Provider*, a project for the refurbishment or replacement of *network* assets which satisfies, on or prior to 30 January 2018, the criteria which a project needs to satisfy to be a “committed project” under:

- (a) in the case of a RIT-D project, the *regulatory investment test for distribution* as in force on the first commencement date; or
- (b) in the case of a RIT-T project, the *regulatory investment test for transmission* as in force on the first commencement date.

**first commencement date** means the date of commencement of Schedule 1 of the Amending Rule.

**old clause 5.16.3** means clause 5.16.3 of the *Rules* (and all related definitions and provisions of the *Rules* amended by the Amending Rule), the *regulatory investment test for transmission* and RIT-T application guidelines made by the *AER*, each as in force immediately prior to the first commencement date.

**old clause 5.17.3** means clause 5.17.3 of the *Rules* (and all related definitions and provisions of the *Rules* amended by the Amending Rule), the *regulatory investment test for distribution* and RIT-D application guidelines made by the *AER*, each as in force immediately prior to the first commencement date.

**old schedule 5.8** means schedule 5.8 of the *Rules* (and all related definitions and provisions of the *Rules* amended by the Amending Rule) as in force immediately prior to the first commencement date.

**RIT-D application guidelines** means the guidelines developed and *published* by the *AER* in accordance with clause 5.17.2 as in force from time to time.

**RIT-T application guidelines** means the guidelines developed and *published* by the *AER* in accordance with clause 5.16.2 as in force from time to time.

**RIT documentation** means each of:

- (a) the *regulatory investment test for transmission*;
- (b) the *regulatory investment test for distribution*;
- (c) the RIT-T application guidelines; and
- (d) the RIT-D application guidelines.

**second commencement date** means the date of commencement of Schedule 2 of the Amending Rule.

**Victorian bushfire mitigation project** means a RIT-D project for the refurbishment or replacement of *network* assets by a Victorian DNSP in order to meet its obligations under clause 7(1)(ha)(i) and (3)(a)(ii) of the *Electricity Safety (Bushfire Mitigation) Regulations 2013 (VIC)*, as in force immediately prior to the first commencement date.

**Victorian DNSP** means a DNSP for a *distribution network* situated wholly or partly within Victoria.

## **11.99.2 Interpretation**

- (a) Terms defined in clause 5.10.2 have the same meaning when used in this Part ZZZA unless a contrary intention appears.
- (b) Italicised terms used in this part ZZZA have the same meaning as in Chapter 10.

### **11.99.3 Transitional arrangements for affected DNSPs**

On and from the first commencement date until, but not including, 1 January 2018, old schedule 5.8 continues to apply to affected DNSPs.

### **11.99.4 Amendments to RIT documentation**

- (a) By no later than 18 September 2017, the *AER* must amend and *publish* the RIT documentation to take into account the Amending Rule.
- (b) In making the amendments to the RIT documentation required under paragraph (a), the *AER*:
  - (1) must only make amendments to the RIT Documentation to the extent required to take into account the Amending Rule;
  - (2) is not required to comply with the *transmission consultation procedures* or the *distribution consultation procedures* (as the case may be); and
  - (3) must consult with *network service providers* and any other persons that the *AER* considers appropriate.

### **11.99.5 Transitional arrangements relating to excluded projects**

- (a) Each *Network Service Provider* must publish and maintain on its website a list of its excluded projects, which must include:
  - (1) the project name;
  - (2) a brief description of the project; and
  - (3) the scheduled completion date,on and from the second commencement date until completion of its excluded projects.
- (b) In respect of each *Network Service Provider*:
  - (1) old clause 5.16.3 continues to apply to excluded projects that are RIT-T projects for a replacement of *network* assets (and are not intended to *augment* the *transmission network*); and
  - (2) old clause 5.17.3 continues to apply to excluded projects that are RIT-D projects for refurbishment or replacement of *network* assets (and are not intended to *augment* a *network*).

**11.99.6 Transitional arrangements relating to Victorian bushfire mitigation projects**

- (a) Where a Victorian DNSP has Victorian bushfire mitigation projects, it must publish and maintain on its website a list of Victorian bushfire mitigation projects, which must include:
  - (1) the project name;
  - (2) a brief description of the project; and
  - (3) the scheduled completion date,  
  
on and from the second commencement date until completion of its Victorian bushfire mitigation projects.
- (b) In respect of each Victorian DNSP old clause 5.17.3 continues to apply to each Victorian Bushfire mitigation project.

**11.99.7 Transitional arrangements relating to review of costs thresholds**

- (a) Clause 5.15.3(a)(1) of Chapter 5 applies for the purposes of clause 5.15.3(b)(1A) as if the words “July 2009” were omitted and substituted with the words “18 July 2017”.
- (b) Clause 5.15.3(c)(3) of Chapter 5 applies for the purposes of clause 5.15.3(d)(4A) as if the words “1 January 2013” were omitted and substituted with the words “18 July 2017”.

---

[END OF RULE AS MADE]

---