

9 August 2012

Ms Claire Royzn  
Project Leader  
Australian Energy Market Commission  
PO Box A2449  
SYDNEY SOUTH NSW 1235



positive energy

Dear Ms Royzn

**ERC0131 - Draft Rule Determination National Electricity Amendment  
(Distribution Network Planning and Expansion Framework) Rule 2012**

The Rule change presents a series of interrelated and complex regulatory compliance issues for all distribution network service providers (DNSPs) and Energex acknowledges the AEMC's attempt to address these issues in its Draft Rule and Determination. Energex highlights that these changes will inevitably result in process and system changes for DNSPs, thus increasing compliance costs ultimately borne by customers. In finalising the Rule change Energex requests that the AEMC ensure that realisable benefits to customers outweigh the associated costs of the Rule change.

Energex's review of the Draft Rules suggests that there remain a number of outstanding matters for which Energex has concern. Energex's attached submission addresses these matters in detail. Energex also wishes to note that it supports the submission lodged by the Energy Networks Association.

Listed below are key issues of the Energex response.

**DAPR publication date and forward planning date**

Energex believes that, in line with DAPR date, jurisdictions should be able to prescribe the start date of the forward planning period. Energex has consistently sought that dates of publication of the DAPR need to be on a jurisdictional basis, due to the fact that networks have different planning drivers and rely on up to date seasonal data to finalise planning forecasts.

Energex currently produces a Network Management Plan which is published each year on 31 August, and applies to the financial year planning period. Energex is concerned that the Draft Rules state that the planning period for the DAPR is to begin one day after the DAPR date. Due to the summer peaking nature of Energex's business, the preference is for a retrospective start date of 1 July which allows for reporting on a financial year basis.

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Energex is also concerned by the onerous information requirements of the DAPR. A number of the requirements set out under schedule 5.8 (particularly those also provided as part of the RIT-D process) will result in duplicate reporting and significantly increase the size of the DAPR. Energex questions the intent of these clauses and requests that the AEMC consider the costs associated with producing this data and remove the unnecessary and redundant reporting requirements.

### **Joint planning**

Energex acknowledges the AEMC's attempt to address the regulatory burden on DNSPs of having to conduct the two tests. However, Energex does not support a DNSP being required to undertake a RIT-T for purposes of joint planning, due to the additional costs incurred. Although the tests are similar, the RIT-T and RIT-D require different processes, systems and skill sets. In addressing this issue Energex suggests that the AEMC should consider inserting the clause:

*Where the project is determined to be a RIT-T project, the Transmission Network Service Provider is deemed the lead party responsible for carrying out the regulatory investment test for transmission, unless otherwise agreed between the parties.*

### **RIT-D cost threshold**

The requirement that the RIT-D cost threshold be applied to the most expensive potential credible option is inconsistent with the intention of having a cost threshold that attempts to address the currently disproportionate regulatory burden on DNSPs. This is because:

- a) a credible option must be 'commercially feasible' and in practice would involve an NPV analysis, as the draft determination requires the option to also be economically feasible. Energex is unaware of any proper test for determining commercial feasibility, which would not involve an assessment of costs and benefits; and
- b) the most expensive option is the option that is least likely to be built, particularly as market benefits are not required to be quantified in the analysis under RIT-D.

Energex has consistently argued that the threshold should be amended to 'least expensive', an approach which would address both of the above concerns and would significantly reduce compliance costs for DNSPs by avoiding unnecessary RIT-D assessments.

Energex is concerned that unless the AEMC amends the threshold to 'least expensive', it will be required to conduct the RIT-D on significantly more projects to what it conducted in 2012. Energex considers that this will be driving up costs unnecessarily with very little benefit for customers. Energex questions whether the costs associated with these additional RIT-D assessments are outweighed by the benefits to the market and customers. In the normal course of planning, the most expensive option is the option that is least likely to be built.

### **Disputes**

Energex is concerned that the scope of matters that can be disputed and the scope of parties that can raise a dispute remains very broad. Energex suggests that such an

approach has the potential to increase project delays and costs to DNSPs (and ultimately customers) due to the increased risk of lengthy and protracted disputes. There is also the potential for some third parties being able to use the dispute resolution process by strategically delaying to raise issues which could have been addressed with the DNSP prior to the final report being published.

Should you have any enquiries please contact Louise Dwyer Group Manager Regulatory Affairs on (07) 3664 4047.

Yours sincerely

A handwritten signature in black ink that reads "Kevin Kehl". The signature is written in a cursive, slightly slanted style.

Kevin Kehl  
Executive General Manager - Strategy and Regulation

*Attach.*

**Energex Limited**

**AEMC Draft Rule Determination National  
Electricity Amendment (Distribution  
Network Planning and Expansion  
Framework) Rule 2012  
ERC0131**

**Energex Submission**

**9 August 2012**

Issue	AEMC Response	Energex Response
<b>Distribution Annual Planning Report</b>		
<b><i>Exemptions or variations to the annual reporting requirements</i></b>		
<p>Stakeholders were supportive of the proposal to allow exemptions or variations to the proposed annual reporting requirements.<sup>1</sup></p> <p>Energex did not support the inclusion of a set of criteria to assist DNSPs in developing, and the AER in assessing, applications for exemptions or variations to the proposed annual reporting requirements. Energex was opposed on the basis that there was no national consistency amongst DNSPs in their approach to the preparation and analysis of data.</p>	<p>The draft rule does not enable the AER to grant exemptions or variations to the annual reporting requirements set out in draft schedule 5.8.</p> <p>The Commission's preference is to focus on the detailed requirements of schedule 5.8 to ensure these are appropriate and fit for purpose for each DNSP. Where a specific requirement is unlikely to prove workable for a particular DNSP, it may be necessary to consider providing some flexibility within the rules, where appropriate.</p>	<p><u>Omission of Exemptions and Variations</u></p> <p>Energex does not support removing the AER's ability to grant an exemption or variation to the proposed annual reporting requirements. Energex suggests that the inclusion of this clause would not result in inconsistency with regard to annual reporting across jurisdictions because the circumstances in which the AER would grant such an exemption or variation would be limited. A DNSP would only ever initiate such an application where it is clear that the DNSP cannot meet the requirement or where the cost of providing the information would clearly outweigh the benefit.</p> <p>Energex further suggests that the inclusion of such a clause would prevent any future unnecessary Rule changes or derogation should a DNSP be unable to meet a reporting requirement. Energex suggests that the AEMC should reconsider including this clause into the Final Rule.</p>
<b><i>Drafting changes</i></b>		
N/A – new issue raised	N/A – new issue raised	<ul style="list-style-type: none"> <li>• <i>Clause 5.13.1(d)(1) and (vi), (2)(v)</i></li> </ul> <p>Energex suggests that the AEMC consider amending clause 5.13.1(d)(1) to include bulk supply substations. Zone substations connect between the sub-transmission and distribution networks. A bulk supply substation connects with the transmission and sub-transmission network.</p> <p>Energex suggests that the AEMC also consider</p>

<sup>1</sup> ENA (p. 8), Ergon Energy (p. 8), Energex (p. 3), Victorian DNSPs (p. 9), Endeavour Energy (pp. 4, 11), Essential Energy (p. 5), EnerNOC (p. 4), Ausgrid (p. 4)

Issue	AEMC Response	Energex Response
		<p>amending clause 5.13.1(d)(vi) to replace ‘embedded generating units’ with ‘<i>known</i> embedded generating units’. Energex notes that there may be some embedded generators that the DNSP is unaware of due to them being located deep within the customer’s own network.</p> <p>Energex suggests that the AEMC consider amending clause 5.13.1(d)(2)(v) to include ‘the requirement for voltage regulation <i>and other aspects of power quality</i>, and...’ or if it implements Energex’s suggestions below, replace ‘voltage regulation’ with ‘power quality’.</p>
<b>DAPR reporting requirements</b>		
N/A - new issue raised	N/A – new issue raised	<p><u>Forward planning date - draft clause 5.13.2(b), (c)</u></p> <p>Energex does not support the forward planning period for the DAPR beginning on the date one day after the DAPR date. Energex’s preference is for the forward planning date to be specified in jurisdictional legislation (similar to the DAPR publication date). If no such date is specified in the jurisdictional legislation, then Energex suggests the default date should be based at the beginning of the financial year, 1 July. This accords with current Queensland reporting arrangements and efficiently aligns the planning period cycle into regulatory years (consistent with the AER QLD Distribution Determination).</p> <p>Further, any intervening period arising between the end of a planning period and the publication of a new DAPR is proposed to be dealt with similarly to that provided for in clause 6.11.3 of the NER (in the context of Distribution Determinations).</p> <p>Energex suggests that the drafting around this clause should be amended to:</p> <p>(a) For the purposes of this clause 5.13.2:1</p> <p><b>DAPR date</b> means for a <i>Distribution Network</i></p>

Issue	AEMC Response	Energen Response
		<p><i>Service Provider:</i></p> <ol style="list-style-type: none"> <li>1. the date by which it is required to <i>publish a Distribution Annual Planning Report</i> under <i>jurisdictional electricity legislation</i>; or</li> <li>2. if no such date is specified in <i>jurisdictional electricity legislation</i>, 31 December.</li> </ol> <p>(b) <u>For the purposes of this clause 5.13.2:</u></p> <p><b><u>Forward planning date</u></b> means for a <i>Distribution Network Service Provider:</i></p> <ol style="list-style-type: none"> <li>1. <u>The commencement date of the forward planning period under <i>jurisdictional electricity legislation</i>; or</u></li> <li>2. <u>if no such date is specified in <i>jurisdictional electricity legislation</i>, 1 July.</u></li> </ol> <p>(c) By the DAPR date each year, a <i>Distribution Network Service Provider</i> must <i>publish the Distribution Annual Planning Report</i> setting out the results of the <i>distribution</i> annual planning review for the forward planning period beginning on the <u>forward planning date</u>.</p> <p>(d) If a period intervenes between the end of one forward planning period and the <i>publication</i> of a new <i>Distribution Annual Planning Report</i> providing for the next forward planning period the previous <i>Distribution Annual Planning Report</i> continues in force during the intervening period.</p>
<p>Energex suggested that further clarification be provided in regards to the phrase 'voltage regulation' in proposed clause 5.6.2AA(g)(2). Specifically, what is required to be published in the DAPR.</p>	<p>Voltage regulation refers to variations in voltage with changing load conditions. Draft clause 5.13.2(d)(2) confirms that a limitation caused by a requirement for voltage regulation would constitute a 'system limitation' for the purposes of this rule. DNSPs would therefore be required to report on any system limitations which may have been caused by a requirement for voltage regulation in accordance with draft schedule 5.8(4).</p>	<p>Energex suggests that the current definition of voltage fluctuation is too restrictive as it implies voltage perturbations only whereas "power quality" refers to current unbalance limits, harmonic limits in addition to voltage limits.</p> <p>Voltage regulation is part of a suite of 'power quality' requirements defined in several Australian Standards. Energex therefore suggests that "voltage regulation"</p>

Issue	AEMC Response	Energex Response
		should be replaced with "power quality" to better reflect Australian planning standards.
N/A – new issue raised	N/A – new issue raised	<p>Distribution networks generally specify the rating of equipment (lines, cables, transformers) in Amps or MV.A. Forecast loads are generally specified in Amps or MV.A (with also a breakdown of the MV.A figure into its MW and MVAR components)</p> <p>The DAPR requirements do not seem to specify the units of measure which need to be used in reporting. However, under S5.8(c)(5)(iii), for example, there is reference to 'the estimated reduction in forecast load in MW needed to defer the forecast system limitation'. A reference to MW only could be seen as precluding power factor correction as a solution to network limitations.</p> <p>Energex suggests that this reference should be to MV.A not MW, or not be specific about the units at all. For example, 'the estimated reduction in forecast load needed to defer the forecast system limitation'.</p>
Energex noted that it has numerous policies impacting asset management. As such, Energex expressed concern that in demonstrating that the planning review had been undertaken in line with these policies, a DAPR would contain an excessive volume of information, thereby reducing its value. On this basis, it requested further clarification as to the type of policies referred to in proposed clause 5.6.2AA(g)(4).	The draft rule does not require DNSPs to undertake the annual planning review in a manner which is consistent with its asset management policies. To the extent that such compliance is required by jurisdictional instruments, this will be captured by draft clause 5.13.2(d)(4).	Energex notes the AEMC's omission of this requirement and suggests that clause 5.13.2(d)(4) has been incorrectly referenced as it does not appear to exist in the draft rules.
<p>Ausgrid considered that providing annual forecasts for each primary feeder would not add benefit and would only add cost.</p> <p>Essential Energy also suggested further consideration be given to the definition of a "primary feeder" as the present definition would result in significant reporting demand for a large number of distribution feeders, with little benefit. Essential Energy suggested that</p>	<p>Due to the number of primary distribution feeders and the nature of preparing forecasts for these assets, the draft rule only requires information to be provided on primary distribution feeders which are overloaded (or forecast to be overloaded within the next two years) where these have been identified by the DNSP.</p> <p>The definition of primary distribution feeder is based on the functionality of the assets rather than specific voltage levels.</p>	<p>Energex suggests a more appropriate definition for primary feeders is:</p> <p>"A primary distribution feeder means a distribution line connecting a sub-transmission asset to either other distribution lines that are not sub-transmission or LV lines, or to distribution assets that are not sub-transmission or LV assets."</p>

Issue	AEMC Response	Energex Response
relating the “primary feeder” definition reporting requirements to the NSW jurisdiction “-1” distribution feeder security reporting could be an appropriate option.	The Commission considers this approach to the definition is appropriate and will capture all the required assets.	
N/A	<p>The Commission's preference is to focus on the detailed requirements of schedule 5.8 to ensure these are appropriate and fit for purpose for each DNSP. Where a specific requirement is unlikely to prove workable for a particular DNSP, it may be necessary to consider providing some flexibility within the rules, where appropriate.</p> <p>The Commission would be interested in feedback from stakeholders on whether any of the reporting requirements set out in draft schedule 5.8 are likely to be particularly problematic, and the reasons why.</p>	<p>Energex has reviewed scheduled 5.8 and its concerns with some of the requirements being proposed are discussed below:</p> <p><u>Schedule 5.8 – Content of DAPR</u></p> <p>Energex has concerns with the content requirements of the DAPR under schedule 5.8, in particular the duplicate and unnecessary reporting of information that will be readily available in the RIT-D process documentation. This duplicate reporting will only result in increased compliance costs to DNSPs and ultimately customers.</p> <ul style="list-style-type: none"> <li>• S5.8(a)(5)</li> </ul> <p>Energex currently does not report this in its Network Management Plan (NMP) and would assume that this would require energy and demand forecast to be reported.</p> <ul style="list-style-type: none"> <li>• S5.8(b)(2)</li> </ul> <p>Energex suggests the AEMC consider replacing (i) ‘transmission-distribution connection points’ with ‘bulk supply substations’. A bulk supply substation connects with the transmission and sub-transmission network.</p> <ul style="list-style-type: none"> <li>• S5.8(b)(2)(vi)</li> </ul> <p>Energex currently does not report this in its NMP and that this requirement will require Energex to initiate system changes which are both time consuming and costly. Energex suggests that this information would only be relevant where there are emerging limitations and then it would be used in the RIT-D process for substations and feeders. As such, Energex suggests that the AEMC consider removing this requirement.</p>

Issue	AEMC Response	Energex Response
		<ul style="list-style-type: none"> <li data-bbox="1467 295 1668 327">• S5.8(b)(2)(vii)</li> </ul> <p data-bbox="1467 335 2042 446">Energex currently does not report on this in its NMP and notes that it would be unable to do so for distribution feeders but can supply this information for zone and bulk supply substations.</p> <ul style="list-style-type: none"> <li data-bbox="1467 470 1668 502">• S5.8(b)(2)(ix)</li> </ul> <p data-bbox="1467 510 2042 622">Energex currently does not report this in its NMP and notes that this requirement will require Energex to initiate costly system changes to capture this information.</p> <ul style="list-style-type: none"> <li data-bbox="1467 646 1624 678">• S5.8(b)(5)</li> </ul> <p data-bbox="1467 686 2042 766">Energex suggests the AEMC consider adding unbalanced loads to this list. For example, the presence of disturbing loads such as harmonics.</p> <ul style="list-style-type: none"> <li data-bbox="1467 790 1624 821">• S5.8(c)(1)</li> </ul> <p data-bbox="1467 829 2042 885">Energex would not be able to report the month and year but rather the season and year.</p> <ul style="list-style-type: none"> <li data-bbox="1467 909 1624 941">• S5.8(c)(3)</li> </ul> <p data-bbox="1467 949 2042 1141">The information that is intended to be captured under this clause is already reported under joint planning documentation because it is the TNSP that picks up the emerging limit. Energex therefore suggests that this clause be deleted to avoid unnecessary duplication of reporting and increased compliance costs.</p> <ul style="list-style-type: none"> <li data-bbox="1467 1165 1624 1197">• S5.8(c)(4)</li> </ul> <p data-bbox="1467 1204 2042 1388">Energex suggests that reporting this information would be a duplication of information already available under the RIT-D process and for Energex may result in an additional 2000 pages (50 RIT-D projects x 40 pages each) being added to the DAPR. Currently Energex's NMP is 1200 pages, therefore it is strongly recommended that this clause be deleted to reduce</p>

Issue	AEMC Response	Energex Response
		<p>unnecessary compliance costs.</p> <ul style="list-style-type: none"> <li>• S5.8(c)(5)</li> </ul> <p>Energex suggests that reporting this information would be a duplication of information already available under the RIT-D process. If Energex were to report on this in the DAPR, it would require Energex to initiate system changes, which are both time consuming and costly. If the system could not be automated to capture this data, Energex estimates that it would need to engage one to two additional employees to capture and analyse this information for the DAPR. Energex therefore suggests that this clause be deleted in the interests of reducing DNSP's business costs.</p> <ul style="list-style-type: none"> <li>• S5.8(d)(2)</li> </ul> <p>Energex suggests that the AEMC should reconsider the requirement to report on the primary feeders that are forecast to exceed 100% of its normal cyclic rating. Energex's notes that normal planning practice is to load distribution feeders up to a utilisation factor to accommodate one feeder being out of service. The number will vary but will not be 100%.</p> <p>Energex suggests that '100% of normal cyclic rating' be replaced with '75% of its normal cyclic rating'. Energex's currently reports on this 75% in its NMP.</p> <ul style="list-style-type: none"> <li>• S5.8(d)(6)</li> </ul> <p>Energex suggests that reporting this information would be a duplication of information already available under the RIT-D process. Further, Energex suggests that it is unclear why this information would need to be reported in the DAPR. In order to meet this requirement, Energex would have to initiate system changes, which are both time consuming and costly. Energex therefore suggests that this clause be</p>

Issue	AEMC Response	Energex Response
		<p>deleted.</p> <ul style="list-style-type: none"> <li>• S5.8(d)(7)</li> </ul> <p>Energex suggests that this clause requires the DNSP to report on partial RIT-D information and queries if this is the AEMC's intent. The DAPR should not result in duplicate reporting with the RIT-D and this clause should be removed.</p> <ul style="list-style-type: none"> <li>• S5.8(e)</li> </ul> <p>Energex suggests that this information is already contained in the RIT-D process documentation and should therefore be removed.</p> <p>Should the AEMC wish to keep this clause (which may add up to thousands of additional pages), Energex suggests that the DAPR should not result in duplicate reporting and a DNSP should only be required to include a link to its website where the information can be easily obtained.</p> <ul style="list-style-type: none"> <li>• S5.8(g)</li> </ul> <p>Energex suggests that this information is already contained in the RIT-D process documentation for augmentation projects and if it were required to attach the RIT-D and planning documentation to the DAPR, the volume of the DAPR would increase significantly. Currently, Energex's Regulatory Test Project Approval Reports are approximately 50 pages in length. Energex suggests that only refurbishment and replacements that are <b>not</b> the subject of RIT-D should be reported.</p> <ul style="list-style-type: none"> <li>• S5.8(h) and (i)</li> </ul> <p>Energex is unclear of the perceived benefit of including this information in the DAPR.</p> <p>Energex currently publishes the information required under S5.8(h)(1) and (i)(1), however the information required under (2) would be more problematic as</p>

Issue	AEMC Response	Energex Response
		<p>there may be commercially confidential information that cannot be made available. Energex suggests a better approach would be to publish a list of approved planned investments. This list would then be part of the RIT-D list.</p> <p>Energex further suggests that under (h)(3) and (i)(3), if only the approved RIT-D projects are required to be listed then the contact details will already be provided as part of the RIT-D consultation process.</p> <ul style="list-style-type: none"> <li>• S5.8(l)(1)</li> </ul> <p>Energex suggests that the requirement to publish this information in the DAPR would result in duplicate reporting because this information is already contained in the RIT-D process documentation. Energex suggests that the AEMC consider removing this clause.</p> <ul style="list-style-type: none"> <li>• S5.8(m)</li> </ul> <p>Currently, Energex does not report on this type of information in its NMP. Energex is unclear why the AEMC thinks the DAPR should include this information and what the benefit of reporting to the AER would be.</p> <ul style="list-style-type: none"> <li>• S5.8(n)</li> </ul> <p>Energex suggests this clause be removed. Energex does not do regional plans because Energex's distribution area is in one region. Further, the overlay of maps that this clause requires is duplicate reporting because the information is already contained in other sections of the DAPR.</p>
<b>Defined Terms</b>		
N/A – new issue raised	N/A – new issue raised	<p><u>Total capacity</u></p> <p>Energex suggests that the AEMC should consider amending 'total capacity' to 'Maximum Supportable</p>

Issue	AEMC Response	Energex Response
		<p>Load’.</p> <p>Capacity falls into two basic categories – system normal and emergency, and includes network related constraints in addition to individual components. Energex suggests that reference to system normal would occur whenever consideration is given to ‘with all components in service’. This is because the total capacity of individual devices may be different to the "maximum supportable load" due to interconnected network related constraints such as load sharing, voltage stability and discrete network topography.</p> <p>Energex suggests that "maximum supportable load" is different when there is a contingency or when individual component(s) is (are) out of service. Firstly, a higher rating may apply for components remaining in service (on a short-time basis) but secondly, the maximum supportable load may be lowered due to fewer components being in service.</p> <p>The definition should be Maximum Supportable Load system Normal and Maximum Supportable Load Emergency.</p>
N/A – new issue raised	N/A – new issue raised	<p><u>Zone substation</u></p> <p>Energex suggests that the AEMC consider amending the definition of ‘zone substation’ so that it includes a reference to bulk supply substations.</p> <p>Zone substations connect between the sub-transmission and distribution networks. Bulk supply substations connect between the transmission and sub-transmission network.</p> <p>Energex further suggests that the AEMC consider including in the definition a category for Bulk Supply Substation.</p>
<b>Demand Side Engagement Strategy</b>		

Issue	AEMC Response	Energex Response
<b>Demand Side Engagement Document</b>		
N/A – new issue raised	N/A – new issue raised	<p>Draft clause 5.13.2(g) requires a DNSP to document its strategy in a demand side engagement document which must be published no later than 9 months after the date of the commencement of the rule.</p> <p>Energex suggests that this would result in the AER RIT-D, RIT-D Application Guidelines and DNSP demand side engagement document being published at the same time.</p> <p>Energex suggests that aspects of the AER’s RIT-D and Application Guidelines will affect the contents of the demand side engagement document and therefore clause 5.13.2(g) should be amended so that the demand side engagement document is required to be published after the publication of the AER’s documentation.</p>
<b>Legislative drafting change</b>		
<ul style="list-style-type: none"> <li>Proposed clause 5.6.2AA(p)</li> </ul> <p>ENERGEX suggests that the following amendment to clause 5.6.2AA(p) would provide clarity in relation to when the Demand Side Engagement Register would be required to take effect: Each Distribution network Service provider must, from the date on which its first Demand Side Engagement document must be published under paragraph (m), establish and maintain a register (Demand Side Engagement Register) for those parties wishing to be advised of relevant developments relating to clause 5.6.2AA and clause 5.6.5CA.</p>	Noted. See draft clause 5.13.2(j).	Energex supports the amendments but notes that the correct reference is 5.13.1(j) not 5.13.2(j).
<b>Joint planning arrangements</b>		
<b>Applicable regulatory investment test</b>		

Issue	AEMC Response	Energex Response
<p>Energex did not support the RIT-T being undertaken in all circumstances where expenditure on a transmission network was required. It considered a more practical alternative would be for the RIT-T to be applied only in instances where there was a material increase in transmission capacity. Where there was a material increase in the distribution network, Energex considered the RIT-D should be applied.</p>	<p>The Commission supports a single project assessment process - the RIT-T - being applied to all projects which are jointly planned by TNSPs and DNSPs, irrespective of whether the need for investment is driven by a distribution or transmission network limitation. However, the draft rule provides an exception to this general rule for those joint planning projects which may be less likely to deliver material market benefits. In these cases, the benefits of carrying out the RIT-T process rather than the RIT-D process are likely to be minimal.</p> <p>The draft rule therefore requires the RIT-T to be applied to all projects which are jointly planned and where at least one of the credible options to address an identified need includes a network or non-network option on a transmission network with an estimated capital cost greater than \$5 million. In other cases, NSPs would have the option of carrying out the requirements of the RIT-D as an alternative to the RIT-T (where the relevant RIT-D criteria are met).</p>	<p>Energex is supportive of this approach and acknowledges the AEMC's attempt to address the regulatory burden on DNSPs of having to conduct the two tests.</p> <p>However, Energex does not support a DNSP being required to undertake a RIT-T for purposes of joint planning as there are fundamental differences between the two tests, which will require DNSPs to implement two different compliance programs within its businesses, resulting in unnecessary compliance costs.</p> <p>Energex further suggests that the draft determination did not address the process differences between the two tests as outlined by Energex in its supplementary submission (these points are outlined below).</p> <p>To address the fundamental issue of joint planning and the two tests, Energex suggests that the AEMC should consider inserting a clause that states:</p> <p><i>Where the project is determined to be a RIT-T project, the Transmission Network Service Provider is deemed the lead party responsible for carrying out the regulatory investment test for transmission, unless otherwise agreed between the parties.</i></p>
<p>Energex queried the benefits, from a policy perspective, of undertaking a RIT-T in circumstances where the purpose of joint planning is to address a distribution network limitation. Energex noted that the RIT-D was designed specifically to cater to the characteristics of distribution networks and, on this basis, provides additional rigour to the consideration of non-network alternatives than the RIT-T. Energex therefore considered that distribution limitations assessed in the context of joint planning (i.e. under the RIT-T) would not be subject to the same level of rigour as provided for by the RIT-D.</p> <p>Energex noted that where a requirement for</p>	<p>The Commission wishes to clarify that, although different in name, the project specification consultation report required under the RIT-T (for all RIT-T projects) and the non-network investigation report required under the RIT-D (for applicable RIT-D projects) are very similar in respect of the information published for consultation. While the scope of the project specification consultation report is broader than the non-network investigation report (that is, the project specification consultation report requires NSPs to consult on network options and material market benefits), both reports contain information intended to assist the relevant NSPs in considering and assessing possible non-network options.</p> <p>On this basis, the Commission disagrees with the view that</p>	<p>Energex acknowledges the AEMC's comments regarding the contents of the RIT-T project specification consultation report. However, Energex submits that three fundamental differences between the two reports are as follows:</p> <ol style="list-style-type: none"> <li>1. RIT-D requires the proponent to notify parties on the Demand Side Engagement Register of publication of the non-network options report.</li> <li>2. RIT-T requires the project specification consultation report to be published for 12 weeks. RIT-D requires the non-network options report to be published for 4 months.</li> </ol>

Issue	AEMC Response	Energex Response
investment related primarily to a limitation on a distribution network, the lead party would generally be a DNSP. On this basis, it considered the assessment should be conducted under the RIT-D.	joint planning projects subject to the RIT-T will be subject to a less thorough consideration of non-network options than if those projects were assessed under the RIT-D.	3. The RIT-T consultation report is to be 'made available' as opposed to 'published' under RIT-D. It is not necessarily clear that 'make available' involves publication on a website.
<p>Energex did not support the requirement for DNSPs to undertake a RIT-T on the basis that it would create uncertainty and inefficiency in the distribution planning process due to:</p> <ul style="list-style-type: none"> <li>• differences between the RIT-T and RIT-D. Energex considered it was not prudent for a DNSP to develop the required critical competencies, systems and models to undertake the requirements of the RIT-T; and</li> <li>• uncertainties around how to address some of the RIT-T requirements. Energex considered the uncertainties likely to arise from requiring a DNSP to undertake the RIT-T were sufficient to reconsider the proposed requirements.</li> </ul>	Noted. As above.	The issues raised by the AEMC in the box above relate to policy issues associated with non-network alternatives in the RIT-D vs RIT-T. The comments in this box relate to administrative and practical issues in requiring a DNSP to undertake a RIT-T. It is not clear to Energex that these issues have been addressed by the AEMC.
<b>Legislative drafting changes</b>		
N/A – new issues raised	N/A – new issues raised	<p>Energex notes the following changes may need to be made to the following draft Rules:</p> <ul style="list-style-type: none"> <li>• <i>Clause 5.10.2</i></li> </ul> <p>Sometimes there are multiple needs to address the limitation. Energex suggests the AEMC consider the need to pluralise this definition so that it reads as:</p> <p><i>joint planning project</i> means a project <u>or projects</u> initiated to address a need identified under the relevant joint planning provisions.</p> <ul style="list-style-type: none"> <li>• <i>Clause 5.10.2</i></li> </ul> <p>There may be multiple identified needs and the Rules need to reflect this. Energex suggests that 'identified need' be amended to 'identified need <u>or identified</u></p>

Issue	AEMC Response	Energex Response
		<p><u>needs</u>’</p> <ul style="list-style-type: none"> <li>• Clause 5.14.1(d)(1)</li> </ul> <p>Sometimes there are joint planning projects which involve a multitude of TNSPs and DNSPs. There may be a need to pluralise TNSP and DNSP under this clause.</p> <p>The AEMC may need to consider amending this clause so that it reads ‘...and to undertake joint planning of projects which relate to <u>either or all</u> networks’.</p> <ul style="list-style-type: none"> <li>• Clause 5.14.1(d)(3)</li> </ul> <p>Sometimes there are joint planning projects which involve a multitude of TNSPs and DNSPs. There may be a need to pluralise TNSP and DNSP under this clause. This clause may need to also state ‘that will affect <u>all TNSP and DNSP networks</u>’ to reflect the above.</p>
<b>Regulatory Investment Test for Distribution (RIT-D)</b>		
<b><i>Identification of credible options</i></b>		
<p>The ENA and Energex noted that ‘commercially feasible’ (referenced in proposed clause 5.6.5D(a)(2)) was undefined and thus may be open to interpretation. These stakeholders suggested this phrase be replaced with ‘economically feasible’, consistent with the language of the RIT-D principles which refer to net economic benefit (they considered that an option found to have a negative NPV could be argued to be commercially unfeasible).</p>	<p>Noted.</p>	<p>Energex addresses the definition of ‘credible option’ in the context of the RIT-D threshold. See discussion below.</p>
<p>Energex suggested that proposed clause 5.6.5D(b1)(5) and (6) should not refer to ‘credible options’ given that, at this stage in the process, a DNSP would have not yet determined whether the</p>	<p>No longer relevant due to drafting changes.</p>	<p>Energex recognises the amendment, however, notes that clause 5.15.2(b)(4), (6) and (7) still refers to ‘credible option’ prior to establishing that option is credible or not. It appears that the AEMC have</p>

Issue	AEMC Response	Energex Response
option is credible.		rectified this for the RIT-D but not the RIT-T.
<b>Application of the RIT-D</b>		
<p>The AER noted that it was not clear why proposed clause 5.6.5CA(c)(7) (which does not have an equivalent provision in the RIT-T) was beneficial or necessary. It considered it was difficult to imagine circumstances in which construction costs, operating and maintenance costs and costs associated with complying with regulatory arrangements would not apply to a particular credible option. In addition, the AER noted that DNSPs had experience in quantifying these classes of costs as they are broadly the same as those that currently apply under the reliability limb of the existing regulatory test.</p> <p>The ENA and Energex noted that proposed clause 5.6.5CA(c)(7) would require a DNSP to include a quantification of all classes of applicable costs unless it could provide reasons as to why a particular class of cost 'is not expected to apply'. These stakeholders considered the wording was unclear and suggested it be replaced with a reference to the 'materiality' of the class of cost, in line with the wording of the corresponding provisions for the RIT-T.</p>	<p>The Commission broadly agrees with these views. On this basis, proposed clause 5.6.5CA(c)(7) has been omitted from the draft rule and a consequential amendment made to draft clause 5.17.1(c)(6) to require DNSPs to consider and quantify the applicable classes of costs.</p>	<p>Energex reiterates its comment from its previous submission that costs should only have to be quantified where they are material. The Draft Rules appear to still require quantification of immaterial costs as per clause 5.17.1(c)(6).</p>
<p>Ergon Energy noted that the wording of proposed clause 5.6.5CA(c)(4) appeared to require a DNSP to undertake a compulsory assessment of market benefits. On the basis of the view that the majority of distribution projects would be reliability driven (and hence the consideration of market benefits irrelevant), it considered that the compulsory assessment of market benefits would add considerably to the costs of the process with no real benefit.</p>	<p>The Commission notes that it was not the intention of proposed clause 5.6.5CA(c)(4) to require DNSPs to undertake detailed analysis and quantification of each class of market benefit when considering whether market benefits could be delivered by a credible option. Rather, it was intended that any consideration of market benefits be qualitative in nature only. Draft clause 5.17.1(c)(4) clarifies this intent.</p>	<p>The policy position is internally inconsistent with the draft Rules. The draft Rules and part of the determination require that the DNSP must consider (but does not have to quantify) market benefits<sup>2</sup>. The AEMC believes that this will provide flexibility in the assessment of market benefits recognising that, in many cases, RIT-D projects will tend to have limited market benefits. Energex supports this approach.</p> <p>However, footnote 350 states that: <i>'the draft rule will provide stakeholders with the ability to raise disputes</i></p>

<sup>2</sup> AEMC Draft Determination page 197 (in response to Energex issue)

Issue	AEMC Response	Energex Response
		<p><i>in relation to a RIT-D proponents' application of the RIT-D. This should also provide a discipline on relevant NSPs to consider and quantify any applicable market benefits where these are material or where they may alter the outcome of the RIT-D assessment'.</i></p> <p>Energex suggests the AEMC, in its Final Determination, confirm that quantification of market benefits is optional under the RIT-D.</p> <p>Energex further suggest that if the DNSP chooses not to quantify the market benefits, then this decision is not open to the RIT-D dispute resolution process (as suggested by footnote 350).</p>
<p>In relation to the use of the term 'plant' in proposed clause 5.6.5CA(c)(4), Energex noted that the definition of 'plant' in Chapter 10 appeared to refer to plant relevant to generation. Energex suggested that the AEMC clarify what this term referred to in relation to distribution.</p>	<p>The definition of 'plant' set out in the proposed rule includes several definitions, not all of which are generation specific, and any of which may be relevant to the application of the RIT-D.</p>	<p>Energex suggests that the definition of 'plant' should be based around significant or mechanical devices such as a generator, transformer or a circuit breaker.</p> <p>Energex does not consider that an overhead wire or an underground cable should be included in this definition of 'plant' but should be defined as 'conductors'. Energex seeks further clarity on this issue to remove the need for interpretation of the rules</p>
<p><b><i>RIT-D cost threshold</i></b></p>		
<p>Stakeholders expressed concern in relation to the application of the RIT-D threshold to "the most expensive option which is technically and economically feasible". They considered that this requirement would lead to almost every distribution investment being subject to the RIT-D.<sup>3</sup></p> <p>The ENA, Ergon Energy and Energex considered the</p>	<p>The draft rule differs from the proposed in respect of the terminology used to describe the approach to applying the RIT-D cost threshold level. Under the draft rule, a project will be exempt from the RIT-D where the estimated capital cost (to the NSPs affected by the RIT-D project) of the most expensive credible option<sup>4</sup> is less than \$5 million (as varied in accordance with a cost threshold determination).</p>	<p>Energex notes that it appears to be the intention of the AEMC (as stated at the workshop) that the RIT-D threshold should not be subject to the RIT-D dispute resolution process. Energex supports this intention and requests that this be reflected in the Rules.</p> <p>Nonetheless, the threshold must be correctly calculated as a greater compliance requirement of the</p>

<sup>3</sup> ENA (pp. 4, 13, 15), Ergon Energy (pp. 4-5), Energex (pp. 9, 15), Victorian DNSPs (pp. 5, 16), ETSA Utilities (pp. 6-8)

Issue	AEMC Response	Energex Response
<p>proposed approach would create a regulatory burden on DNSPs as: (1) the term 'economically and technically feasible' could be broadly interpreted and would capture a range of possible options, thus increasing the likelihood of the most expensive option being above \$5 million; and (2) such terminology would essentially prescribe a requirement to undertake a preliminary mini least cost regulatory investment test prior to the STT stage of the RIT-D.</p> <p>The ENA and Energex suggested the focus of the RIT-D cost threshold should be on the least expensive option.</p> <p>This view was supported by Ergon Energy who considered that either the 'least expensive option' or the 'preferred option' should be the focus.</p> <p>ETSA Utilities and the Victorian DNSPs considered the RIT-D cost threshold should be set with reference to the capital cost of the 'preferred network investment option'.</p> <p>The Victorian DNSPs considered that application of the RIT-D cost threshold to the 'most expensive' technically and economically feasible option was unworkable and would not serve to effectively or meaningfully limit projects which would be subject to the RIT-D.</p> <p>The Victorian DNSPs considered that a more appropriate and workable approach would be to apply a 'least expensive option' to all 'credible options'. They did not consider that the most expensive credible option would be any more workable than the current proposal.</p>	<p>The Commission considers that the application of the RIT-D cost threshold level (being \$5 million) to the most expensive potential credible option provides the appropriate balance between minimising the regulatory burden placed on DNSPs in conducting the RIT-D process, and ensuring that the appropriate range of projects are subject to a robust and transparent economic assessment.</p>	<p>NER. Therefore, Energex takes this obligation and the method of the calculation extremely seriously.</p> <p>Energex has three issues with the threshold:</p> <ol style="list-style-type: none"> <li>1. <u>The threshold is set relative to the most expensive potentially <b>credible</b> option.</u></li> </ol> <p>Energex acknowledges that the AEMC has assumed that an option that is determined to be commercially feasible must also be economically feasible and vice versa (page 95). Based on this assumption, it seems to be suggested that establishing economic feasibility (e.g. via an NPV analysis) is not required.</p> <p>However, Energex is unaware of any proper test for determining commercial feasibility which would not involve an assessment of costs and benefits. It is not clear what lesser test is available to robustly establish commercial feasibility other than a method which very closely resembles an NPV analysis. If the AEMC is aware of such methods, Energex requests that these be described in the Final Determination.</p> <p>As previously stated, it is not appropriate that a DNSP is required to undertake an NPV type analysis just to determine whether a RIT-D exemption is established.</p> <ol style="list-style-type: none"> <li>2. <u>The threshold is that <b>most expensive</b> potentially credible option is more than \$5 million.</u></li> </ol> <p>Energex has significant concerns with the proposed threshold that is 'most expensive' as the most expensive option is the option that is least likely to be built, particularly because market benefits are not required to be quantified in the analysis under RIT-D.</p> <p>Energex is concerned that unless the AEMC amends</p>

4 'Potential credible option' is defined in the draft rule as an investment option which a RIT-T proponent or a RIT-D proponent (as the case may be) reasonably considers has the potential to be a credible option based on its initial assessment of the identified need.

Issue	AEMC Response	Energex Response
		<p>the threshold, it will be required to conduct the RIT-D on a significantly increased number of identified limitations on its network, which will drive up costs with very little benefit for customers.</p> <p>It is Energex's understanding that the intent behind the drafting is to ensure that the DNSP complies with the RIT-D requirements and undertakes sufficient consultation. Rather, it would be in the best interests of the market and customers to reduce costs of compliance by introducing the 'least expensive' threshold and balancing the concern for non compliance with civil penalties and AER compliance reviews.</p> <p>3. <u>The material used to undertake the threshold analysis</u></p> <p>It is not sufficient that footnote 352 in the draft determination, limits the threshold analysis to a 'desktop exercise' because:</p> <ul style="list-style-type: none"> <li>• the requirement may be open to dispute, and</li> <li>• a DNSP should not be expected to rely on guidance provided in a footnote to a Draft Determination.</li> </ul> <p>If it is the case that the threshold test is to be a 'desktop exercise' then a provision to this should be put in the rules (e.g. a Rule stating that only readily available material should be used).</p>
<b>Exempt projects</b>		
<p>The ENA and Energex were concerned that the intention of proposed clause 5.6.5CB(a)(6) was to require the RIT-D to be undertaken on new investments where there was an incidental augmentation or gifted asset required to facilitate a</p>	<p>The draft rule provides an exemption from the RIT-D for projects where the identified need can only be addressed by expenditure on a connection asset. For clarification, 'connection assets' are assets which provide an entry or exit service at a single connection point.<sup>5</sup></p>	<p>The AEMC has clarified that connection assets (or a portion of those) which are recovered from all users fall within RIT-D. However, it does not appear that the AEMC has addressed Energex's comment regarding the delays that this may cause for the connecting</p>

<sup>5</sup> See Chapter 10 of the NER.

Issue	AEMC Response	Energex Response
<p>new connection. They considered such a requirement would result in undue delay for the connection asset customer.</p> <p>Ausgrid noted that an unintended consequence of the proposed rule was that some connection assets may be considered as shared network assets and therefore could become the subject of a RIT-D. Ausgrid considered this would result in unnecessary connection delays.</p> <p>Ausgrid also suggested that where a customer contributed a significant proportion of the cost of a new network investment associated with its connection, that investment should be exempt from the RIT-D process.</p> <p>ETSA Utilities requested clarification on the intention of proposed clause 5.6.5CB(a)(6) on the basis that it implied that any portion of a shared network upgrade to support a connection would be subject to a RIT-D. ETSA Utilities suggested a waiver clause like that included in proposed clause 5.6.5CB(a)(8), be inserted.</p>	<p>It is intended that any upgrade to the shared network to support a new connection will fall within the scope of the RIT-D to the extent that expenditure on the upgrade is made by a DNSP and recovered from all users of the network.</p> <p>In the instance that a proportion of an upgrade was fully or partially funded by a customer, that proportion of the upgrade would be excluded from the project for the purposes of the RIT-D assessment (including from consideration of the project against the RIT-D cost threshold).</p>	<p>customer.</p> <p>In circumstances where an upstream augmentation is required to connect a customer, and that upstream augmentation is required to go through the RIT-D process, the connection applicant may not be able to connect for at least 18 months (which is the average planning cycle timeframe for Energex under the Regulatory Test) from the time of application.</p> <p>Not only would such a delay be an issue for a customer, but it may also cause a conflict with the connection timing requirements under Chapter 5A of the Rules.</p>
<b>RIT-D procedures</b>		
<ul style="list-style-type: none"> <li>• 5.6.6AB</li> </ul> <p>The term 'consult' is used throughout RIT-D and may be subject to different interpretations as to what is actually required by the term. For example, consulting under 5.6.6AB(g) may be different as to what form of consultation is required under clause 5.6.6AB(p) and it may be interpreted differently across DNSPs. This outcome would not be consistent with the principle of seeking consistency across the NEM. ENERGEX suggests that the term 'consult' should be defined under Chapter 10. ENERGEX is concerned that since the classes of disputing parties has been broadened, the lack of clarity behind the term 'consult' has the potential to be the subject of numerous and lengthy</p>	<p>The Commission does not consider it necessary to be prescriptive regarding the form of consultation under these rules.</p>	<p>Energex acknowledges the AEMC's position on this matter and notes that consultation may be conducted differently across jurisdictions.</p>

Issue	AEMC Response	Energex Response
disputes.		
<b>Specification threshold test</b>		
<p>The ENA, Energex and ETSA Utilities considered the proposed drafting required further clarity regarding which projects were intended to be streamlined through the RIT-D process. These stakeholders considered that the phrase 'technically feasible' would result in DNSPs never being able to exercise the STT, rendering it ineffective.</p> <p>The ENA and Energex suggested that 'technically feasible non-network options' be amended to 'credible non-network options' on the basis that this would require non-network options to be economically/commercially and technically feasible and be able to be completed in a timely manner. The ENA and Energex argued that this amendment was the original intention.</p>	<p>The draft rule differs from the proposed rule by providing DNSPs with an exemption from the requirement to prepare and publish a non-network options report (previously the project specification report) where there are reasonable grounds to determine that a non-network option will not be a credible option to address an identified need. The Commission considers the draft rule achieves the original intent of the specification threshold test.</p>	<p>Energex has two issues with the screen for non-network options stage:</p> <ol style="list-style-type: none"> <li>1. <u>The RIT-D process map set out in Figure 9.1 and the Rules do not reflect the same process</u></li> </ol> <p>The process map appears to suggest that a draft project assessment report is not required to be published for projects where a notice or non-network options report has been published but the estimated capital cost of the preferred option is under \$5 million.</p> <p>Clause 5.17.4(n) does not appear to reflect this suggestion. Energex seeks clarity as to the correct process.</p> <ol style="list-style-type: none"> <li>2. <u>Publication of the Notice is for information purposes only</u></li> </ol> <p>Energex suggests that it is unclear if the purpose of the Notice is for information purposes only. Energex is concerned that third parties may raise issue with the Notice under the misapprehension that it is published for consultative purposes. Energex suggests that the AEMC consider amending the Rules so that it is clear the Notice is for information purposes only.</p>
<b>Project assessment stage</b>		
<p>The ENA and Energex considered proposed clause 5.6.6AB(m) was ambiguous.</p> <p>In addition, Energex noted its concern that references to 'elect to proceed' would be made prior to finalisation of the RIT-D process. Energex considered that, if this clause acknowledged that an investment may need to commence prior to finalisation of the RIT-D, then it also provided strong reason to narrow</p>	<p>The draft rule clarifies that if one or more NSPs wish to proceed with a RIT-D project following a determination under the non-network screening process or the publication of a non-network options report, then the RIT-D proponent, having regard (where relevant) to any submissions received on the non-network options report, must prepare and publish a draft project assessment report within:</p> <ul style="list-style-type: none"> <li>• 12 months of:</li> </ul>	<p>See Energex's comments above in relation to its issues with the screening for non-network options stage.</p>

Issue	AEMC Response	Energex Response
the scope to raise disputes.	<ul style="list-style-type: none"> <li>— the end of the consultation period on a non-network options report; or</li> <li>— where a non-network option report is not required, the publication of a notice to this effect; or</li> <li>• any longer time period as agreed in writing by the AER.</li> </ul>	
<b>Re-application of the RIT-D</b>		
<p>The AER considered it may be appropriate to include further boundaries around requirements to undertake RIT-D assessments. In particular, the AER suggested further thought be given to whether a DNSP should reapply the RIT-D where:</p> <ol style="list-style-type: none"> <li>1. a significant period of time has elapsed since completion of original assessment;</li> <li>2. significant new information (e.g. revised demand forecast) has emerged since completion of original assessment which indicates need for investment has changed;</li> <li>3. estimated costs associated with project have significantly increased since completion of the original assessment (e.g. due to town planning or environmental approval considerations).</li> </ol> <p>The AER considered that in these circumstances, the original assessment may not identify the most efficient option and it would be reasonable and prudent to require DNSP to reapply the RIT-D.</p>	<p>The draft rule includes a new provision clarifying that, unless otherwise determined by the AER, a RIT-D proponent would be expected to reapply the RIT-D where there has been a material change in circumstances which, in the reasonable opinion of the RIT-D proponent or any other NSP affected by a RIT-D project, means that the preferred option identified in the original RIT-D assessment is no longer the preferred option.</p> <p>In making such a determination, the draft rule also requires the AER to have regard to the credible options (other than the preferred option) identified in the final project assessment report and the change in circumstances identified by the RIT-D proponent.</p> <p>See section 9.3.4 for further discussion on this matter.</p>	<p>Energex notes the AEMC’s comments and additional clauses in the draft Rules with regard to re-application of the RIT-D. Energex has three issues in relation to re-application of the RIT-D</p> <ol style="list-style-type: none"> <li>1. Energex suggests that a DNSPs assessment as to whether it must reapply or not reapply the RIT-D should not be subject to the RIT-D dispute resolution process. The AER have the power to independently review a DNSPs re-application assessment as part of its monitoring and enforcement role of the National Electricity Rules.</li> </ol> <p>Energex is also concerned that if re-application was subject to dispute this would inevitably result in further project delays, particularly where re-application became an issue well outside the period (i.e. months/years) after which the original RIT-D was conducted.</p> <ol style="list-style-type: none"> <li>2. Energex suggests that the AEMC should consider the re-application of the RIT-D is not required where a project is urgent or where the additional delay caused by any re-application would result in the DNSP being unable to meet its reliability standards.</li> </ol>
<p>Energex noted that the issue of the re-application of the RIT-D was primarily driven by uncertainty around the relationship between conducting a RIT-D and then building an option to address the identified limitation. It considered the AEMC should clarify that the RIT-D:</p>	<p>The RIT-D has been designed as a process to facilitate stakeholder consultation in identifying the most efficient investment option to meet an identified need. The RIT-D is not intended to test the efficiency of a particular proposed investment per se, nor does it require that a particular</p>	<p>Energex further suggests that the AEMC consider amending the RIT-D principles under clause 5.17.1 to include the statement that:</p> <p><i>‘The RIT-D is not intended to test the efficiency of a</i></p>

Issue	AEMC Response	Energenx Response
(1) requires the DNSP to identify the preferred option at the time RIT-D is undertaken; and (2) does not require the DNSP to necessarily build the preferred option identified by the RIT-D.	investment that satisfies the RIT-D be undertaken. Rather, the RIT-D provides a process to consider the benefits of potential investment options relative to alternative investment options.	<p><i>particular proposed investment per se, nor does it require that a particular investment that satisfies the RIT-D be undertaken</i>.</p> <p>This statement should be a key principle of the RIT-D and Energenx suggests it should not be included on page 174 at the back of a draft determination. It should be a fundamental principle that DNSPs, non-network proponents, the AER and other third parties should be cognisant of.</p>
<b>Civil Penalties</b>		
While the AER recognised that setting civil penalty provisions was beyond scope of the AEMC's role, it noted that the effectiveness of the planning framework may be improved by classifying the obligations as civil penalty provisions. The AER noted that there had been issues with the RIT-T due to the absence of civil penalty provisions resulting in a lack of enforcement tools available to the AER.	Noted.	Energenx agrees with the AEMC's position that RIT-D does not pose a risk to the NEM and further suggests that as a RIT-D proponent is not required to build the preferred investment that satisfies RIT-D, the provisions should not be amended to civil penalty provisions.
<b>Legislative drafting changes</b>		
N/A – new issues raised	N/A – new issues raised	<p>Energenx suggests that the AEMC should consider amending the following clauses:</p> <ul style="list-style-type: none"> <li>• Clauses 5.17.1(b) and 5.17.1(c)(5)</li> </ul> <p>Energenx suggests that the AEMC consider amending these clauses to include the word 'potential' to the term 'credible option' as it appears to have been left out.</p> <ul style="list-style-type: none"> <li>• Clauses 5.17.1(c)(4) and 5.17.1(c)(6)</li> </ul> <p>Energenx suggests that the AEMC should provide further clarity if it requires the DNSP to include the costs of interest on borrowings, establishment fees and prior land costs when referring to 'changes in costs for parties other than the RIT-D proponent due to: differences in capital costs', and 'financial costs</p>

Issue	AEMC Response	Energex Response
		<p>incurred in constructing or providing the credible option’.</p> <ul style="list-style-type: none"> <li>• Clause 5.17.3(c)</li> </ul> <p>Energex suggests that the AEMC should consider adding an additional subclause to what will be deemed urgent and unforeseen so that it will include those projects which are required to be implemented to meet a reliability standard that would otherwise be breached if the project was subject to the RIT-D process.</p>
<b>Dispute resolution process</b>		
<p>Stakeholders considered the scope of parties eligible to raise a dispute was too broad and may result in vexatious claims being lodged and projects delayed.<sup>6</sup></p> <p>The ENA, Energex and Ergon Energy suggested that, unless the results of the final project assessment report diverged significantly from the draft project assessment report, parties should not be allowed to raise a dispute in relation to any issue that could have been raised during consultation of the draft project assessment report.</p>	<p>The Commission considers the draft rule provides sufficient safeguards to protect against the risk that the dispute resolution process may be used inappropriately by some stakeholders in certain circumstances.</p> <p>In addition, the Commission considers that it is appropriate that any stakeholder who may be impacted by a DNSP's decisions under the RIT-D be provided with the opportunity to raise a compliance issue directly with the AER, without being limited in the circumstances in which it may do so.</p>	<p>Energex acknowledges the AEMC's comments, however, maintains its position that unless the results of the final project assessment report diverged significantly from the draft project assessment report, parties should not be allowed to raise a dispute in relation to any issue that could have been raised during consultation of the draft project assessment report.</p> <p>Energex understands that one of the driving intents behind the RIT-D process and increased consultative timeframes is to encourage DNSPs and non-network proponents to proactively engage with one another.</p> <p>Energex strongly believes that a third party should not be able to raise a dispute to an issue that it should have addressed during the 6 week consultative phase of the draft report. Energex is concerned that some third parties will be able to inefficiently exploit the scope of the dispute resolution process to delay projects.</p> <p>Energex understands that the AER can reject frivolous or vexatious claims and supports such an</p>

<sup>6</sup> Endeavour Energy (p. 9), Victorian DNSPs (p.6), Essential Energy (p. 8), Ergon Energy (p. 24), Energex (p. 18), ENA (pp. 20-21)

Issue	AEMC Response	Energex Response
		<p>approach. However, it is Energex’s experience under the current Regulatory Test (which has a much narrower scope of who and what can be disputed) that it is very difficult for the AER and the DNSP not to engage with any party that wishes to raise a dispute or issue with a project, even where the grounds of the dispute are questionable.</p> <p>It is Energex’s experience that the planning process under the current Regulatory Test takes approximately 18 months from when a limitation is identified, options are considered, the project is designed and costed and completes the Regulatory Test.</p> <p>The RIT-D consultation timeframes will increase this period by a further 6 months. If a dispute is raised then there is the potential that the project will be further delayed for up to another 100 days. In Energex’ experience, disputes and issues raised by third parties have delayed projects by up to three years.</p>
<p>The AER noted that while it was broadly supportive of the classes of parties that could raise a dispute, it considered two aspects of the definition of 'interested party' were not clear, namely the terms: (1) "identifies itself as having"; and (2) "market". The AER suggested amending this clause to remove some ambiguity from current drafting applying to both RIT-T and RIT-D disputes.</p>	<p>The draft rule clarifies the definition of 'interested party'.</p>	<p>Energex suggests that the AEMC should define the term 'adverse market impact' as per the definition of 'interested party' under clause 5.15.1. There should be absolute clarity as to who should be deemed an 'interested party' for the purposes of raising a dispute.</p>