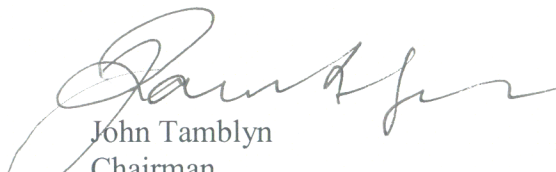


National Electricity Amendment (Reform of the Regulatory Test Principles) Rule 2006 No.19

under the National Electricity Law as applied by:

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

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



John Tamblyn
Chairman
Australian Energy Market Commission

National Electricity Amendment (Reform of the Regulatory Test Principles) Rule 2006 No.19

1. Title of Rule

This Rule is the *National Electricity Amendment (Reform of the Regulatory Test Principles) Rule 2006 No.19*.

2. Commencement

This Rule commences operation on the 30 November 2006.

3. Amendment of the National Electricity Rules

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

Schedule 1 Amendment of National Electricity Rules

(Clause 3)

[1] Clause 5.6.5A

Omit the clause and substitute:

5.6.5A Regulatory Test

- (a) The *AER* must develop and *publish* the *regulatory test* in accordance with this clause 5.6.5A.
- (b) The purpose of the *regulatory test* is to identify *new network investments* or non-*network* alternative options that:
 - (1) maximise the net economic benefit to all those who produce, consume and transport electricity in the *market*; or
 - (2) in the event the option is necessitated to meet the service standards linked to the technical requirements of schedule 5.1 or in *applicable regulatory instruments*, minimise the present value of the costs of meeting those requirements.
- (c) In so far as it relates to paragraph (b)(1), the *regulatory test* must:
 - (1) be based on a cost-benefit analysis of the future (which includes assessment of reasonable scenarios of future supply and demand conditions):
 - (i) were the *new network investment* to take place, compared to the likely alternative option or options,
 - (ii) were the *new network investment* not to take place;
 - (2) as a minimum, list or provide for:
 - (i) the classes of possible benefits that may be included as benefits, and classes of possible benefits that may not be included as benefits;
 - (ii) the method or methods permitted for estimating the magnitude of the different classes of benefits;
 - (iii) the classes of possible costs that may be counted as costs, and classes of possible costs that may not be included as costs;
 - (iv) the method or methods permitted for estimating the magnitude of the different classes of costs; and
 - (v) the appropriate method and value for specific inputs, where relevant, for determining the discount rate to be applied;
 - (3) ensure that the identification of the likely alternative option referred to in subparagraph (1) is informed by a consideration

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- of all genuine and practicable alternative options to the proposed *new network investment* without bias regarding:
- (i) energy source;
 - (ii) technology;
 - (iii) ownership;
 - (iv) the extent to which the *new network investment* or the *non-network* alternative enables *intra-regional* or *inter-regional* trading of electricity;
 - (v) whether it is a *network* or *non-network* alternative;
 - (vi) whether the *new network investment* or *non-network* alternative is intended to be regulated; or
 - (vii) any other factor;
- (4) require, for a potential *new large transmission network asset*, that the *Network Service Provider* publish:
 - (i) a request for information as to the identity and detail of alternative options to the potential *new large transmission network asset*; and
 - (ii) details of the proposed *new large transmission network asset*;
 - (5) contain a requirement that where there is more than one likely alternative option to the *new network investment*, and no single alternative option is significantly more likely to occur than the other, then the cost-benefit analysis referred to in subparagraph (1) must be undertaken in relation to each such likely alternative option;
 - (6) not require the level of analysis to be disproportionate to the scale and size of the *new network investment*;
 - (7) be capable of predictable, transparent and consistent application; and
 - (8) provide that alternative options may include (without limitation) *generation*, demand side management, other *network* options, or the substitution of demand for electricity by the provision of alternative forms of energy.

Preparation, publication and amendment of regulatory test and regulatory test application guidelines

- (d) At the same time as the *AER* publishes a proposed *regulatory test* under the *transmission consultation procedure*, the *AER* must also *publish* guidelines for the operation and application of the *regulatory test* ('the **regulatory test application guidelines**') in accordance with the requirements of this clause 5.6.5A.

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- (e) The *regulatory test* application guidelines must give effect to and be consistent with this clause 5.6.5A and provide guidance on the operation and application of the *regulatory test*.
 - (f) The AER must develop and *publish* the first *regulatory test* and *regulatory test* application guidelines under this clause 5.6.5A by 31 December 2007 and there must be a *regulatory test* and *regulatory test* application guidelines in force at all times after that date.
 - (g) The AER may, from time to time and in accordance with the *transmission consultation procedure*, amend or replace the *regulatory test* and *regulatory test* application guidelines developed and *published* under this clause, provided that such amendments must be *published* at the same time.
 - (h) An amendment as referred to in paragraph (g) does not apply to a current application of the *regulatory test* and the *regulatory test* application guidelines under the *Rules* (however described) by a *Network Service Provider*.

[2] Chapter 10 Glossary

In Chapter 10, omit the current corresponding definitions and substitute the following definitions:

regulatory test

The test developed and published by the AER in accordance with clause 5.6.5A, as in force from time to time, and includes amendments made in accordance with clause 5.6.5A.

reliability augmentation

A *transmission network augmentation* that is necessitated principally by inability to meet the minimum *network* performance requirements set out in schedule 5.1 or in relevant legislation, regulations or any statutory instrument of a *participating jurisdiction*.

[4] Chapter 11 Saving and Transitional Rules

After clause 11.6 insert:

11.7 Rules consequent on making of the National Electricity Amendment (Reform of Regulatory Test Principles) Rule 2006 No.19

11.7.1 Definitions

For the purposes of this rule 11.7:

Amending Rule means the National Electricity Amendment (Reform of the Regulatory Test Principles) Rule 2006 No.19.

commencement date means the date on which the Amending Rule commences operation.

current application means any action taken or process commenced under the *Rules*, which relies on or is referenced to, the *regulatory test*, and is not completed as at the commencement date.

new clause 5.6.5A means clause 5.6.5A of the *Rules* as in force immediately after the commencement of the Amending Rule.

old clause 5.6.5A means clause 5.6.5A of the *Rules* as in force immediately before the commencement of the Amending Rule.

transitional application means any action taken or process commenced under the *Rules*, which relies on or is referenced to, the *regulatory test* and is not completed on 31 December 2007, or the date on which amendments (if any) to the *regulatory test* commence, whichever is the earlier.

11.7.2 Amending Rule does not affect old clause 5.6.5A

- (a) On the commencement date, the *regulatory test* promulgated by the *AER* in accordance with the old clause 5.6.5A and in effect immediately before the commencement date, continues in effect and is taken to be consistent with the new clause 5.6.5A until 31 December 2007.
- (b) Old clause 5.6.5A, and the *regulatory test* promulgated under that clause 5.6.5A, continues to apply to and in respect of, any current application and any transitional application.