

## **National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006**

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

*16 November 2006*

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## **National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006 No.18**

### **1. Title of Rule**

This Rule is the *National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006 No.18*.

### **2. Commencement**

This Rule commences operation on 16 November 2006.

### **3. Interpretation**

Notes do not form part of this Rule.

### **4. New Chapter 6A of the National Electricity Rules**

A new Chapter 6A is inserted in the National Electricity Rules as set out in Schedule 1.

### **5. Amendments (other than to Chapters 6 and 10) to the National Electricity Rules consequential on the making of the new Chapter 6A of the National Electricity Rules**

Chapters 1, 2, 5, 7, 8, and 9 of the National Electricity Rules are amended as set out in Schedule 2.

### **6. Amendments to the Glossary in Chapter 10 of the National Electricity Rules**

Chapter 10 of the National Electricity Rules is amended as set out in Schedule 3.

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**7. Amendment of Chapter 6 of the National Electricity Rules consequential on the making of the new Chapter 6A of the National Electricity Rules**

Chapter 6 of the National Electricity Rules is amended as set out in Schedule 4.

**8. Savings and Transitional Amendments to the National Electricity Rules**

Chapter 11 of the National Electricity Rules is amended as set out in Schedule 5.

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## Schedule 1 New Chapter 6A of the National Electricity Rules

(Clause 4)

### [1] New Chapter 6A

After Chapter 6, insert:

## 6A. Economic Regulation of Transmission Services

### Part A - Introduction

#### 6A.1 Introduction to Chapter 6A

##### 6A.1.1 Economic regulation of transmission services generally

- (a) Part B of this Chapter 6A states the general obligation of the *AER* to make *transmission determinations* for *Transmission Network Service Providers* in respect of:
  - (1) *prescribed transmission services*; and
  - (2) *negotiated transmission services*.
- (b) This Chapter 6A regulates:
  - (1) the revenues that may be earned by *Transmission Network Service Providers* from; and
  - (2) the prices that may be charged by *Transmission Network Service Providers* for,  
  
the provision by them of the *transmission services* that are the subject of *transmission determinations*.
- (c) Other *transmission services* provided by *Transmission Network Services Providers*, are not subject to regulation under this Chapter 6A.

##### 6A.1.2 Prescribed transmission services - revenue regulation

Part C of this Chapter 6A regulates the revenues that may be earned by *Transmission Network Service Providers* from the provision by them of *prescribed transmission services*.

##### 6A.1.3 Prescribed transmission services - pricing regulation

###### Deleted

**Note:** The draft National Electricity Amendment (Pricing of Prescribed Transmission Services) 2006, when made, will add a new Part J - Regulation of Pricing – Prescribed Transmission Services - in the new Chapter 6A, and this clause will be amended at that time. The provisions of

the old Part C including schedules 6.2, 6.3, 6.4, 6.7 and 6.8, are dealt with in savings and transitional rules in rule 11.6.

#### **6A.1.4 Negotiated transmission services - pricing regulation**

Part D of this Chapter 6A regulates the prices that may be charged by *Transmission Network Service Providers* for the provision by them of *negotiated transmission services*.

#### **6A.1.5 National regulatory arrangements**

- (a) The *AER* is, in accordance with this Chapter 6A, responsible for the economic regulation of services provided by *Transmission Network Service Providers* by means of, or in connection with, *transmission systems* that form part of the *national grid*.
- (b) Subject to the agreement of the *AER* and the relevant *Jurisdictional Regulator*, those parts of a *transmission network* operating at nominal *voltages* between 66kV and 220kV that:
  - (1) do not operate in parallel to; and
  - (2) do not provide support to,

the higher *voltage transmission network* may be deemed by the relevant *Transmission Network Service Provider* to be subject to the regulatory arrangements for *distribution service pricing* set out in Parts A and B of Chapter 6.

#### **6A.1.6 Contents of Parts E - I of Chapter 6A**

- (a) Part E sets out the procedure that applies for the purposes of the *AER* making a *transmission determination*.
- (b) Part F contains provisions regarding the disclosure of information.
- (c) Part G contains provisions regarding cost allocation.
- (d) Part H contains provisions regarding the *transmission consultation procedures*.
- (e) Part I contains provisions regarding *Transmission Ring-Fencing Guidelines*

#### **6A.1.7 Application of Chapter 6A to Market Network Service Providers**

- (a) Notwithstanding anything contained in this Chapter 6A:
  - (1) Parts B, C and D do not regulate the revenues that may be earned by *Market Network Service Providers* from, or the prices that may be charged by *Market Network Service Providers* for, the provision by them of *market network services*; and
  - (2) Part E does not apply to *Market Network Service Providers*.
- (b) Part D of this Chapter 6A does not regulate the prices that may be charged by *Transmission Network Service Providers* for *network services* provided to:

- (1) a *Market Network Service Provider*; or
  - (2) another *Network Service Provider* for electricity delivered to a *Market Network Service Provider* through the *network* of the other *Network Service Provider* (except for any such electricity which is ultimately consumed within the other *Network Service Provider's network*).
- (c) Charges for the *network services* referred to in paragraph (b) are governed by the applicable provisions of rule 5.4A and Part D only.

## **Part B - Transmission Determinations Generally**

### **6A.2 Transmission determinations**

#### **6A.2.1 Duty of AER to make transmission determinations**

The *AER* must make *transmission determinations* for *Transmission Network Service Providers* in accordance with this Chapter 6A in respect of:

- (1) *prescribed transmission services*; and
- (2) *negotiated transmission services*.

#### **6A.2.2 Components of transmission determinations**

A *transmission determination* for a *Transmission Network Service Provider* consists of:

- (1) a *revenue determination* for the provider in respect of the provision by the provider of *prescribed transmission services*;
- (2) a determination relating to the provider's *negotiating framework*; and
- (3) a determination that specifies the *Negotiated Transmission Service Pricing Criteria* that apply to the provider.

## **Part C - Regulation of Revenue - Prescribed Transmission Services**

### **6A.3 Allowed revenue from prescribed transmission services**

#### **6A.3.1 Allowed revenue for regulatory year**

The revenue that a *Transmission Network Service Provider* may earn in any *regulatory year* of a *regulatory control period* from the provision of *prescribed transmission services* is the *maximum allowed revenue* subject to any adjustments referred to in clause 6A.3.2, and is to be determined in accordance with:

- (1) the *revenue determination* forming part of the applicable *transmission determination*; and
- (2) the provisions of this Part C.

### **6A.3.2 Adjustment of maximum allowed revenue**

The *maximum allowed revenue* that a *Transmission Network Service Provider* may earn in any *regulatory year* of a *regulatory control period* from the provision of *prescribed transmission services* is subject to adjustment in accordance with rules 6A.7, 6A.8 or 6A.15.

## **6A.4 Revenue determinations**

### **6A.4.1 Introduction**

- (a) The procedure for making a *revenue determination* for a *Transmission Network Service Provider* is contained in Part E of this Chapter 6A, and involves the submission to the *AER* of a *Revenue Proposal* by the provider.
- (b) Such a *Revenue Proposal* must comply with the requirements of this Chapter 6A, and in particular must:
  - (1) be prepared using the *post-tax revenue model* referred to in rule 6A.5; and
  - (2) comply with the requirements of the *submission guidelines* referred to in clause 6A.10.2.

### **6A.4.2 Contents of revenue determination**

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

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

## **6A.5 Post-tax revenue model**

### **6A.5.1 Introduction**

- (a) The process of preparing a *revenue determination* for a *Transmission Network Service Provider* involves the submission of a *Revenue Proposal* to the AER by the provider under clause 6A.10.1. The provider is required to prepare the *Revenue Proposal* using a *post-tax revenue model* in relation to that proposal, in accordance with the requirements of this Chapter 6A.
- (b) The principal purpose of the *post-tax revenue model* is to calculate the *maximum allowed revenue* under the *revenue determination*.
- (c) The *post-tax revenue model*, together with the *Revenue Proposal*, form the basis on which the AER assesses a *Revenue Proposal* and makes a *revenue determination*.

### **6A.5.2 Preparation, publication and amendment of post-tax revenue model**

- (a) The AER must, in accordance with the *transmission consultation procedures*, prepare and *publish* a *post-tax revenue model*.
- (b) The AER may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the *post-tax revenue model*.
- (c) The AER must develop and *publish* the first *post-tax revenue model* by 28 September 2007, and there must be such a model in force at all times after that date.

### **6A.5.3 Contents of post-tax revenue model**

- (a) The *post-tax revenue model* must set out the manner in which the following matters, referable only to the provision of *prescribed transmission services*, are to be calculated in respect of a *Transmission Network Service Provider* for a *regulatory control period*:
  - (1) the *total revenue cap* for the provider for the period;
  - (2) the *maximum allowed revenue* for the provider for each *regulatory year* of the period; and
  - (3) the *annual building block revenue requirement* for the provider for each *regulatory year*, determined in accordance with clause 6A.5.4.
- (b) The *post-tax revenue model* must specify:



- (1) a methodology that the *AER* determines is likely to result in the best estimates of expected inflation;
  - (2) the timing assumptions and associated discount rates that are to apply in relation to the calculation of the building blocks referred to in clause 6A.5.4;
  - (3) the manner (if any) in which working capital is to be treated;
  - (4) the manner in which the estimated cost of corporate income tax is to be calculated; and
  - (5) the CPI - X methodology that is to be applied in escalating the *maximum allowed revenue* for the provider for each *regulatory year* (other than the first *regulatory year*) of a *regulatory control period*.
- (c) The *post-tax revenue model* must be such that:
- (1) the net present value of the expected *maximum allowed revenue* for the provider for each *regulatory year* of the *regulatory control period* is equal to the net present value of the *annual building block revenue requirement* for the provider for each *regulatory year*;
  - (2) the *maximum allowed revenue* for the provider for the first *regulatory year* is expressed as a dollar amount;
  - (3) the *maximum allowed revenue* for the provider for each *regulatory year* (other than the first *regulatory year*) is calculated by escalating the *maximum allowed revenue* for the provider for the previous *regulatory year* using a CPI - X methodology; and
  - (4) the *total revenue cap* for the provider for a *regulatory control period* is calculated as the sum of the *maximum allowed revenues* for the provider for each *regulatory year*.
- (d) For the purposes of this clause 6A.5.3, the X factor is that determined in accordance with clause 6A.6.8.

#### **6A.5.4 Building blocks approach**

(a) **Building blocks generally**

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

- (1) indexation of the regulatory asset base - see paragraph (b)(1);
- (2) a return on capital for that year - see paragraph (b)(2);
- (3) the depreciation for that year - see paragraph (b)(3);
- (4) the estimated cost of corporate income tax of the provider for that year - see paragraph (b)(4);
- (5) certain revenue increments or decrements for that year arising from the *efficiency benefit sharing scheme* - see paragraph (b)(5);

- (6) the forecast operating expenditure accepted or substituted by the *AER* for that year – see paragraph (b)(6); and
- (7) compensation for other risks - see paragraph (b)(7).

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

For the purposes of paragraph (a):

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

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

### **6A.6.1 Regulatory asset base**

#### **Nature of regulatory asset base**

- (a) The regulatory asset base for a *transmission system* owned, controlled or operated by a *Transmission Network Service Provider* is the value of those assets that are used by the provider to provide *prescribed transmission services*, but only to the extent that they are used to provide such services.

#### **Preparation, publication and amendment of model for rolling forward regulatory asset base**

- (b) The *AER* must, in accordance with the *transmission consultation procedures*, develop and *publish* a model for the roll forward of the regulatory asset base for *transmission systems*, referred to as the *roll forward model*.

- (c) The *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the *roll forward model*.
- (d) The *AER* must develop and *publish* the first *roll forward model* by 28 September 2007, and there must be such a model available at all times after that date.

#### **Contents of roll forward model**

- (e) The *roll forward model* must set out the method for determining the roll forward of the regulatory asset base for *transmission systems*:
  - (1) from the immediately preceding *regulatory control period* to the beginning of the first year of the subsequent *regulatory control period*, so as to establish the value of the regulatory asset base as at the beginning of the first *regulatory year* of that subsequent *regulatory control period*; and
  - (2) from one *regulatory year* in a *regulatory control period* to a subsequent *regulatory year* in that same *regulatory control period*, so as to establish the value of the regulatory asset base as at the beginning of the subsequent *regulatory year* of that *regulatory control period*;

under which:

- (3) the roll forward of the regulatory asset base from the immediately preceding *regulatory control period* to the beginning of the first *regulatory year* of a subsequent *regulatory control period* entails the value of the first mentioned regulatory asset base being adjusted for outturn inflation, consistent with the methodology that was used in the *transmission determination* (if any) for the first mentioned *regulatory control period* for the indexation of the *maximum allowed revenue* during that *regulatory control period*.

#### **Other provisions relating to regulatory asset base**

- (f) Other provisions relating to regulatory asset bases are set out in schedule 6A.2.

### **6A.6.2 Return on capital**

#### **Calculation of return on capital**

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

#### **Weighted average cost of capital**

- (b) The rate of return for a *Transmission Network Service Provider* for a *regulatory control period* is the cost of capital as measured by the return required by investors in a commercial enterprise with a similar nature and

degree of non-diversifiable risk as that faced by the *transmission* business of the provider and, subject to any revised values, methodologies and levels arising from a review under paragraphs (f)-(j), must be calculated as a nominal post-tax *weighted average cost of capital* ("WACC") in accordance with the following formula:

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

where:

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

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

where:

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

$\beta_e$  is the equity beta, which is deemed to be 1.0; and

MRP is the market risk premium, which is deemed to be 6.0%;

$k_d$  is the return on debt and is calculated as:

$$r_f + \text{DRP}$$

where:

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

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

$D/V$  is the market value of debt as a proportion of the market value of equity and debt, which is deemed to be 0.6.

### Meaning of nominal risk free rate

- (c) The nominal risk free rate for a *regulatory control period* is the rate determined for that *regulatory control period* by the AER on a moving average basis from the annualised yield on Commonwealth Government bonds with a maturity of 10 years using:
- (1) the indicative mid rates published by the Reserve Bank of Australia; and
  - (2) a period of time which is either:
    - (i) a period ('the **agreed period**') proposed by the relevant *Transmission Network Service Provider*, and agreed by the AER (such agreement is not to be unreasonably withheld); or
    - (ii) a period specified by the AER, and notified to the provider prior to the commencement of that period, if the period

proposed by the provider is not agreed by the *AER* under subparagraph (i),

and, for the purposes of subparagraph (i):

- (iii) the start date and end date for the agreed period may be kept confidential, but only until the expiration of the agreed period; and
  - (iv) the *AER* must notify the *Transmission Network Service Provider* whether or not it agrees with the proposed period within 30 *business days* of the date of submission of the *Revenue Proposal* under clause 6A.10.1(a).
- (d) If there are no Commonwealth Government bonds with a maturity of 10 years on any day in the period referred to in paragraph (c)(2), the *AER* must determine the nominal risk free rate for the *regulatory control period* by interpolating on a straight line basis from the two Commonwealth Government bonds closest to the 10 year term and which also straddle the 10 year expiry date.

#### **Meaning of debt risk premium**

- (e) The debt risk premium for a *regulatory control period* is the premium determined for that *regulatory control period* by the *AER* as the margin between the 10 year Commonwealth annualised bond rate and the observed annualised Australian benchmark corporate bond rate for corporate bonds which have a BBB+ credit rating from Standard and Poors and a maturity of 10 years.

#### **Review of rate of return parameters**

- (f) The *AER* must, in accordance with the *transmission consultation procedures* and paragraphs (g)-(j), carry out reviews of the matters referred to in paragraph (i).
- (g) The *AER* must initiate the first review on 1 July 2009 and every five years thereafter.
- (h) The *AER* may, as a consequence of a review, adopt revised values, methodologies or credit rating levels, and, if it does so, it must use those revised values, methodologies and levels, but only for the purposes of a *Revenue Proposal* that is submitted to the *AER* under clause 6A.10.1(a) after the completion of the first review or after completion of the five yearly reviews (as the case may be).
- (i) The *AER* may only review:
- (1) the values of and methodologies used to calculate:
    - (i) the nominal risk free rate;
    - (ii) the equity beta;
    - (iii) the market risk premium;

- (iv) the maturity period and bond rates referred to in paragraph (d); and
  - (v) the ratio of the market value of debt to the market value of equity and debt,  
as set out in this clause 6A.6.2 or as subsequently revised under paragraph (h); and
  - (2) the credit rating level as referred to in paragraph (e) or as subsequently revised under paragraph (h).
- (j) In undertaking a review under this clause 6A.6.2 and under clause 6A.6.4(b), the *AER* must have regard to:
- (1) the need for the rate of return calculated for the purposes of paragraph (b) to be a forward looking rate of return that is commensurate with prevailing conditions in the market for funds and the risk involved in providing *prescribed transmission services*;
  - (2) the need for the market value of debt to reflect the current cost of borrowings for comparable debt;
  - (3) the need for the values attributable to the parameters referred to in paragraphs (i)(1)(ii), (iv), (v) and (i)(2) to be based on a benchmark efficient *Transmission Network Service Provider*; and
  - (4) where the values that are attributable to parameters referred to in paragraph (i) cannot be determined with certainty:
    - (i) the need to achieve an outcome that is consistent with the *market objective*; and
    - (ii) the need for persuasive evidence before adopting a value for that parameter that differs from the value that has previously been adopted for it.

### 6A.6.3 Depreciation

- (a) The depreciation for each *regulatory year*:
- (1) must be calculated on the value of the assets as included in the regulatory asset base, as at the beginning of that *regulatory year*, for the relevant *transmission system*; and
  - (2) must be calculated:
    - (i) providing such depreciation schedules conform with the requirements set out in paragraph (b), using the depreciation schedules for each asset or category of assets that are nominated in the relevant *Transmission Network Service Provider's Revenue Proposal*; or
    - (ii) to the extent the depreciation schedules nominated in the provider's *Revenue Proposal* do not so conform, using the depreciation schedules determined for that purpose by the *AER* in its final decision on the provider's *Revenue Proposal*.

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

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

#### 6A.6.4 Estimated cost of corporate income tax

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

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

where:

**ETI<sub>t</sub>** is an estimate of the taxable income for that *regulatory year* that would be earned by a benchmark efficient entity as a result of the provision of *prescribed transmission services* if such an entity, rather than the *Transmission Network Service Provider*, operated the business of the

*Transmission Network Service Provider*, such estimate being determined in accordance with the *post-tax revenue model*;

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

$\gamma$  is the assumed utilisation of imputation credits, which is deemed to be 0.5.

For these purposes:

- (1) the cost of debt must be based on that of a benchmark efficient *Transmission Network Service Provider*; and
  - (2) the estimate must take into account the estimated depreciation for that *regulatory year* for tax purposes, for a benchmark efficient *Transmission Network Service Provider*, of assets where the value of those assets is included in the regulatory asset base for the relevant *transmission system* for that *regulatory year*.
- (b) The *AER* must, in accordance with the *transmission consultation procedures* and clause 6A.6.2(j), carry out reviews of the matters referred to in paragraph (d).
- (c) The *AER* must initiate the first review on 1 July 2011 and every five years thereafter.
- (d) The *AER* may only review the value of and methodology used to calculate the assumed utilisation of imputation credits as referred to in paragraph (a) (or as subsequently revised under this clause 6A.6.4).
- (e) Where the value of the assumed utilisation of imputation credits referred to in paragraph (d) cannot be determined with certainty, the *AER* must have regard to:
- (1) the need to achieve an outcome that is consistent with the *market objective*; and
  - (2) the need for persuasive evidence before adopting a value that differs from the value that has previously been adopted for it.
- (f) If, as a consequence of a review, the *AER* decides to adopt a revised value or methodology, it must use that revised value or methodology, but only for the purposes of a *Revenue Proposal* that is submitted to the *AER* under clause 6A.10.1(a) after the completion of the first review or after completion of the five yearly reviews (as the case may be).

#### **6A.6.5 Efficiency benefit sharing scheme**

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, develop and *publish* a scheme (an *efficiency benefit sharing scheme*) that provides for a fair sharing between *Transmission Network Service Providers* and *Transmission Network Users* of:
- (1) the efficiency gains derived from the operating expenditure of *Transmission Network Service Providers* for a *regulatory control period* being less than; and



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

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

- (b) In developing and implementing an *efficiency benefit sharing scheme*, the AER must have regard to:
- (1) the need to provide *Transmission Network Service Providers* with a continuous incentive (that is equal in each year of any *regulatory control period*) to reduce operating expenditure;
  - (2) the desirability of both rewarding *Transmission Network Service Providers* for efficiency gains and penalising *Transmission Network Service Providers* for efficiency losses; and
  - (3) any incentives that *Transmission Network Service Providers* may have to inappropriately capitalise operating expenditure.
- (c) At the same time as it *publishes* an *efficiency benefit sharing scheme* under this clause 6A.6.5, the AER must also *publish* parameters ('the *efficiency benefit sharing scheme parameters*') for the scheme. For the avoidance of doubt, unless the AER provides otherwise in that scheme, such values may differ as between *Transmission Network Service Providers* and over time.
- (d) The AER must set out in each *efficiency benefit sharing scheme* any requirements with which the values attributed to the *efficiency benefit sharing scheme parameters* must comply, but such requirements must not be inconsistent with those factors to which the AER must have regard under paragraph (b).
- (e) The AER must develop and *publish* the first *efficiency benefit sharing scheme* by 28 September 2007, and there must be an *efficiency benefit sharing scheme* in force at all times after that date.
- (f) The AER may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace an *efficiency benefit sharing scheme*, except that no such amendment or replacement may change the application of the scheme to a *Transmission Network Service Provider* in respect of a *regulatory control period* that has commenced before, or that will commence within 15 months of, the amendment or replacement coming into operation.
- (g) Subject to paragraph (h) the AER may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the values to be attributed to the *efficiency benefit sharing scheme parameters*.
- (h) An amendment or replacement referred to in paragraph (g) must not change the values to be attributed to the *efficiency benefit sharing scheme parameters* where:

- (1) those values must be included in information accompanying a *Revenue Proposal*; and
- (2) the *Revenue Proposal* is required to be submitted under clause 6A.10.1(a) at a time that is within 2 months of the *publication* of the amended or replaced *efficiency benefit sharing scheme parameters*.

#### **6A.6.6 Forecast operating expenditure**

- (a) A *Revenue Proposal* must include the total forecast operating expenditure for the relevant *regulatory control period* which the *Transmission Network Service Provider* considers is required in order to achieve each of the following ('the *operating expenditure objectives*'):
  - (1) meet the expected demand for *prescribed transmission services* over that period;
  - (2) comply with all applicable *regulatory obligations* associated with the provision of *prescribed transmission services*;
  - (3) maintain the quality, reliability and security of supply of *prescribed transmission services*; and
  - (4) maintain the reliability, safety and security of the *transmission system* through the supply of *prescribed transmission services*.
- (b) The forecast of required operating expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* must:
  - (1) comply with the requirements of the *submission guidelines*;
  - (2) be for expenditure that is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the *Transmission Network Service Provider*; and
  - (3) include both:
    - (i) the total of the forecast operating expenditure for the relevant *regulatory control period*; and
    - (ii) the forecast of the operating expenditure for each *regulatory year* of the relevant *regulatory control period*.
- (c) The *AER* must accept the forecast of required operating expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* if the *AER* is satisfied that the total of the forecast operating expenditure for the *regulatory control period* reasonably reflects:
  - (1) the efficient costs of achieving the *operating expenditure objectives*;
  - (2) the costs that a prudent operator in the circumstances of the relevant *Transmission Network Service Provider* would require to achieve the *operating expenditure objectives*; and
  - (3) a realistic expectation of the demand forecast and cost inputs required to achieve the *operating expenditure objectives*.

(‘the *operating expenditure criteria*’).

- (d) If the *AER* is not satisfied as referred to in paragraph (c), it must not accept the forecast of required operating expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal*.
- (e) In deciding whether or not the *AER* is satisfied as referred to in paragraph (c), the *AER* must have regard to the following (‘the *operating expenditure factors*’):
  - (1) the information included in or accompanying the *Revenue Proposal*;
  - (2) submissions received in the course of consulting on the *Revenue Proposal*;
  - (3) such analysis as is undertaken by or for the *AER* and is *published* prior to or as part of the draft decision of the *AER* on the *Revenue Proposal* under rule 6A.12 or the final decision of the *AER* on the *Revenue Proposal* under rule 6A.13 (as the case may be);
  - (4) benchmark operating expenditure that would be incurred by an efficient *Transmission Network Service Provider* over the *regulatory control period*;
  - (5) the actual and expected operating expenditure of the provider during any preceding *regulatory control periods*;
  - (6) the relative prices of operating and capital inputs;
  - (7) the substitution possibilities between operating and capital expenditure;
  - (8) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the applicable *service target performance incentive scheme* in respect of the *regulatory control period*;
  - (9) the extent to which the forecast of required operating expenditure of the *Transmission Network Service Provider* is referable to arrangements with a person other than the provider that, in the opinion of the *AER*, do not reflect arm’s length terms; and
  - (10) whether the forecast of required operating expenditure includes amounts relating to a project that should more appropriately be included as a *contingent project* under clause 6A.8.1(b).
- (f) If, in its final decision on the *Revenue Proposal* under rule 6A.13, the *AER* does not accept the total of the forecast required operating expenditure for the *regulatory control period* under paragraph (d), then the *AER* must, in accordance with clause 6A.13.2(b), use a substituted forecast of required operating expenditure.

### 6A.6.7 Forecast capital expenditure

- (a) A *Revenue Proposal* must include the total forecast capital expenditure for the relevant *regulatory control period* which the *Transmission Network Service Provider* considers is required in order to achieve each of the following ('the *capital expenditure objectives*')
- (1) meet the expected demand for *prescribed transmission services* over that period;
  - (2) comply with all applicable *regulatory obligations* associated with the provision of *prescribed transmission services*;
  - (3) maintain the quality, reliability and security of supply of *prescribed transmission services*; and
  - (4) maintain the reliability, safety and security of the *transmission system* through the supply of *prescribed transmission services*.
- (b) The forecast of required capital expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* must:
- (1) comply with the requirements of the *submission guidelines*;
  - (2) be for expenditure that is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the *Transmission Network Service Provider*;
  - (3) include both:
    - (i) the total of the forecast capital expenditure for the relevant *regulatory control period*; and
    - (ii) the forecast of the capital expenditure for each *regulatory year* of the relevant *regulatory control period*; and
  - (4) identify any forecast capital expenditure:
    - (i) that is for a *reliability augmentation*; or
    - (ii) that is for an option that has satisfied the *regulatory test*.
- (c) The *AER* must accept the forecast of required capital expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* if the *AER* is satisfied that the total of the forecast capital expenditure for the *regulatory control period* reasonably reflects:
- (1) the efficient costs of achieving the *capital expenditure objectives*;
  - (2) the costs that a prudent operator in the circumstances of the relevant *Transmission Network Service Provider* would require to achieve the capital expenditure objectives; and
  - (3) a realistic expectation of the demand forecast and cost inputs required to achieve the capital expenditure objectives.
- ('the *capital expenditure criteria*')

- (d) If the *AER* is not satisfied as referred to in paragraph (c), it must not accept the forecast of required capital expenditure of a *Transmission Network Service Provider*.
- (e) In deciding whether or not the *AER* is satisfied as referred to in paragraph (c), the *AER* must have regard to the following ('the *capital expenditure factors*'):
  - (1) the information included in or accompanying the *Revenue Proposal*;
  - (2) submissions received in the course of consulting on the *Revenue Proposal*;
  - (3) such analysis as is undertaken by or for the *AER* and is *published* prior to or as part of the draft decision of the *AER* on the *Revenue Proposal* under rule 6A.12 or the final decision of the *AER* on the *Revenue Proposal* under rule 6A.13 (as the case may be);
  - (4) benchmark capital expenditure that would be incurred by an efficient *Transmission Network Service Provider* over the *regulatory control period*;
  - (5) the actual and expected capital expenditure of the *Transmission Network Service Provider* during any preceding *regulatory control periods*;
  - (6) the relative prices of operating and capital inputs;
  - (7) the substitution possibilities between operating and capital expenditure;
  - (8) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the applicable *service target performance incentive scheme* in respect of the *regulatory control period*;
  - (9) the extent to which the forecast of required capital expenditure of the *Transmission Network Service Provider* is referable to arrangements with a person other than the provider that, in the opinion of the *AER*, do not reflect arm's length terms; and
  - (10) whether the forecast of required capital expenditure includes amounts relating to a project that should more appropriately be included as a *contingent project* under clause 6A.8.1(b).
- (f) If, in its final decision on the *Revenue Proposal* made under rule 6A.13, the *AER* does not accept the total of the forecast of required capital expenditure for the *regulatory control period* under paragraph (d), then the *AER* must, in accordance with clause 6A.13.2(b), use a substitute forecast of required capital expenditure.

**Forecast capital expenditure and contingent projects**

- (g) Paragraphs (h) - (k) apply where:

- (1) in a *regulatory control period* (the **first regulatory control period**) the *AER* determines under clause 6A.8.2(e)(1)(iii) that the likely completion date for a *contingent project* is a date which occurs in the immediately following *regulatory control period* (the **second regulatory control period**); and
  - (2) there is an unspent amount of capital expenditure for that *contingent project* under paragraph (h).
- (h) A *Transmission Network Service Provider's Revenue Proposal* for the second *regulatory control period*, must include in the forecast of required capital expenditure referred to in paragraph (a) an amount of any unspent capital expenditure for each *contingent project* as described in paragraph (g)(2), that equals the difference (if any) between:
- (1) the total capital expenditure for that *contingent project*, as determined by the *AER* in the first *regulatory control period* under clause 6A.8.2(e)(1)(ii); and
  - (2) the total of the capital expenditure actually incurred (or estimated capital expenditure for any part of the first *regulatory control period* for which actual capital expenditure is not available) in the first *regulatory control period* for that *contingent project*.
- (i) The *AER* must include in any forecast capital expenditure for the second *regulatory control period* which is accepted in accordance with paragraph (c), estimated in accordance with clause 6A.14.1(2)(ii) or substituted in accordance with clause 6A.13.2(b)(4) and (5) (as the case may be), the amount of any unspent capital expenditure calculated in accordance with paragraph (h).
- (j) Without limiting the requirement in paragraph (i), in deciding whether or not to accept the forecast of required capital expenditure of a *Transmission Network Service Provider* for the second *regulatory control period* in accordance with this clause 6A.6.7, the *AER* must not:
- (1) assess the reasonableness of the amount of unspent capital expenditure for a *contingent project* referred to in paragraph (h) or the remaining period to which the *contingent project* applies;
  - (2) assess the reasonableness of the timing of the unspent capital expenditure within the remaining period for a *contingent project* referred to in paragraph (h) except as part of the assessment of the total forecast capital expenditure under paragraph (c); or
  - (3) take into account any amount which represents for a *contingent project* referred to in paragraph (h) the difference between:
    - (i) the amount representing the sum of the forecast capital expenditure for that *contingent project* for each year of the immediately preceding *regulatory control period* referred to in clause 6A.8.2(e)(1)(i); and

- (ii) the total capital expenditure actually incurred (or estimated capital expenditure for any part of the preceding *regulatory control period* for which actual capital expenditure is not available) in the immediately preceding *regulatory control period* for that *contingent project*.
- (k) A *Revenue Proposal* in respect of the second *regulatory control period* must not include in the forecast of required capital expenditure referred to in paragraph (a) any capital expenditure for a *contingent project* for the first *regulatory control period*:
  - (1) to the extent that the capital expenditure was included in the amount of capital expenditure for that *contingent project* as determined in the first *regulatory control period* under clause 6A.8.2(e)(1)(i); and
  - (2) the capital expenditure actually incurred (or estimated capital expenditure for any part of the first *regulatory control period* for which actual capital expenditure is not available) in the first *regulatory control period* for that *contingent project* exceeded the capital expenditure referred to in subparagraph (1).

#### **6A.6.8 The X factor**

- (a) A *revenue determination* is to include the X factor for each *regulatory year* for a *Transmission Network Service Provider*.
- (b) The X factors for each *regulatory year* must be:
  - (1) providing they comply with the requirements set out in paragraph (c), the X factors for those *regulatory years* that are nominated in the *Transmission Network Service Provider's Revenue Proposal*; or
  - (2) to the extent that the X factors nominated in the *Transmission Network Service Provider's Revenue Proposal* do not so comply, the X factors determined for that purpose by the AER in its final decision on the *Transmission Network Service Provider's Revenue Proposal*.
- (c) The X factor for each *regulatory year* must be such that:
  - (1) the net present value of the expected *maximum allowed revenue* for the relevant *Transmission Network Service Provider* for each *regulatory year* (as calculated in accordance with the *post-tax revenue model*) is equal to the net present value of the *annual building block revenue requirement* for the provider for each *regulatory year* (as calculated in accordance with the *post-tax revenue model*); and
  - (2) the expected *maximum allowed revenue* for the provider for the last *regulatory year* (as calculated in accordance with the *post-tax revenue model*) is as close as reasonably possible to the *annual building block revenue requirement* for the provider for that *regulatory year* (as calculated in accordance with the *post-tax revenue model*).

- (d) For the avoidance of doubt, there may be a different X factor that applies for different *regulatory years* of the *regulatory control period*.

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

### **6A.7.1 Reopening of revenue determination for capital expenditure**

- (a) Subject to paragraph (b), a *Transmission Network Service Provider* may, during a *regulatory control period*, apply to the *AER* to revoke and substitute a *revenue determination* that applies to it where:
- (1) an event that is beyond the reasonable control of the provider has occurred during that *regulatory control period* and the occurrence of that event during that period (or of an event of a similar kind) could not reasonably have been foreseen by the provider at the time of the making of the *revenue determination* ('the **event**');
  - (2) no forecast capital expenditure was accepted or substituted by the *AER* for that period under clause 6A.6.7(c) or clause 6A.13.2(b)(4) and (5) (as the case may be) in relation to the event that has occurred;
  - (3) the provider proposes to undertake capital expenditure to rectify the adverse consequences of the event;
  - (4) the total of the capital expenditure required during the *regulatory control period* to rectify the adverse consequences of the event:
    - (i) exceeds 5% of the value of the regulatory asset base for the relevant *Transmission Network Service Provider* for the first year of the relevant *regulatory control period*;
    - (ii) is such that, if undertaken, it is reasonably likely (in the absence of any other reduction in capital expenditure) to result in the total actual capital expenditure for that *regulatory control period* exceeding the total of the forecast capital expenditure for that *regulatory control period* as accepted or substituted by the *AER* in accordance with clause 6A.6.7(c) or clauses 6A.13.2(b)(4) and(5) (as the case may be); and
  - (5) the provider can demonstrate that it is not able to reduce capital expenditure in other areas to avoid the consequence referred to in paragraph (a)(4)(ii) without materially adversely affecting the *reliability* and security of the relevant *transmission system*;
  - (6) a failure to rectify the adverse consequences of the event would be likely to materially adversely affect the *reliability* and security of the relevant *transmission system*; and
  - (7) the event is not a *pass through event* or a *contingent project*.

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



- (b) An application referred to in paragraph (a) must not be made within 90 *business days* prior to the end of a *regulatory year*.
- (c) Following its receipt of an application made in accordance with paragraphs (a) and (b), the *AER* must:
  - (1) consult with the *Transmission Network Service Provider* and such other persons as it considers appropriate in relation to the application; and
  - (2) make its decision on the application within 60 *business days* of that application being made.
- (d) The *AER* must, and must only, revoke a *revenue determination* following an application made in accordance with paragraphs (a) and (b) if the *AER* is satisfied of each of the matters referred to in paragraph (a).
- (e) If the *AER* revokes a *revenue determination* under paragraph (d), the *AER* must make a new *revenue determination* in substitution for the revoked determination to apply for the remainder of the *regulatory control period* for which the revoked determination was to apply.
- (f) The substituted *revenue determination* must only vary from the revoked *revenue determination* to the extent necessary:
  - (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of such additional capital expenditure as the *AER* determines is appropriate (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6A.6.7(c)); and
  - (2) to reflect the effect of any resultant increase in forecast capital expenditure on:
    - (i) the forecast operating expenditure for the remainder of the *regulatory control period*;
    - (ii) the *maximum allowed revenue* for each *regulatory year* in the remainder of the *regulatory control period*; and
    - (iii) the X factor for each of the remaining *regulatory years* of the *regulatory control period*.
- (g) If the *AER* revokes and substitutes a *revenue determination* under paragraph (e), that revocation and substitution must take effect from the commencement of the next *regulatory year*.

#### **6A.7.2 Network support pass through**

- (a) This clause applies where a *network support event* occurs with respect to a *regulatory year* ('the **previous regulatory year**').
- (b) If a *network support event* occurs, a *Transmission Network Service Provider* must seek a determination by the *AER* to pass through to *Transmission Network Users* a *network support pass through amount*.

- (c) Where a *Transmission Network Service Provider* seeks a determination as referred to in paragraph (b), the provider must, within 60 *business days* of the end of the previous *regulatory year*, submit to the *AER* a written statement which specifies:
- (1) the details of the *network support event* including whether the event was a *negative network support event* or a *positive network support event*;
  - (2) the amount that the provider proposes should be passed through to *Transmission Network Users* in the *regulatory year* following the previous *regulatory year* as a result of the *network support event*;
  - (3) evidence:
    - (i) of the actual increase in the amount of *network support payments*, including certification by an independent and appropriately qualified expert; and
    - (ii) that such amounts occur solely as a consequence of the *positive network support event*; and
  - (4) such other information as may be required pursuant to the *information guidelines* in force under clause 6A.17.2.
- (d) If the *AER* determines that a *positive network support event* has occurred in respect of a statement under paragraph (c), the *AER* must determine the *network support pass through amount*, taking into account the matters referred to in paragraph (i).
- (e) If the *AER* does not make the determination referred to in paragraph (d) within 60 *business days* from the date it receives the *Transmission Network Service Provider's* statement and accompanying evidence under paragraph (c), then, on the expiry of that period, the *AER* is taken to have determined that the amount as proposed in the provider's statement under paragraph (c) is the *network support pass through amount*.
- (f) If a *negative network support event* occurs (whether or not the occurrence of that event is notified by the provider to the *AER* under paragraph (c)) and the *AER* determines to impose a requirement on the *Transmission Network Service Provider* in relation to that *negative network support event*, the *AER* must determine the *network support pass through amount* taking into account the matters referred to in paragraph (i).
- (g) A *Transmission Network Service Provider* must provide the *AER* with such information as the *AER* requires for the purpose of making a determination under paragraph (f) within the time specified by the *AER* in a notice provided to the provider by the *AER* for that purpose.

### **Consultation**

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

### **Relevant factors**

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

### **6A.7.3 Cost pass through**

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

### **Positive pass through**

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

- (5) the amount of the *positive pass through amount* that the provider proposes should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*;
  - (6) evidence:
    - (i) of the actual and likely increase in costs referred to in subparagraph (3); and
    - (ii) that such costs occur solely as a consequence of the *positive change event*; and
  - (7) such other information as may be required pursuant to *information guidelines* in force under clause 6A.17.2.
- (d) If the *AER* determines that a *positive change event* has occurred in respect of a statement under paragraph (c), the *AER* must determine:
- (1) the *approved pass through amount*; and
  - (2) the amount of that *approved pass through amount* that should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*,
- taking into account the matters referred to in paragraph (j).
- (e) If the *AER* does not make the determinations referred to in paragraph (d) within 60 *business days* from the date it receives the *Transmission Network Service Provider's* statement and accompanying evidence under paragraph (c), then, on the expiry of that period, the *AER* is taken to have determined that:
- (1) the *positive pass through amount* as proposed in the provider's statement under paragraph (c) is the *approved pass through amount* in respect of that *positive change event*; and
  - (2) the amount of that *positive pass through amount* that the provider proposes in its statement under paragraph (c) should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*, is the amount that should be so passed through in each such *regulatory year*.

### **Negative pass through**

- (f) A *Transmission Network Service Provider* must submit to the *AER*, within 60 *business days* of becoming aware of the occurrence of a *negative change event* for the provider, a written statement which specifies:
- (1) the details of the *negative change event* concerned;
  - (2) the date the *negative change event* occurred;
  - (3) the costs in the provision of *prescribed transmission services* that the provider has saved and is likely to save until the end of the *regulatory control period* as a result of the *negative change event*;
  - (4) the aggregate amount of those saved costs that the provider proposes should be passed through to *Transmission Network Users*;

- (5) the amount of the costs referred to in subparagraph (4) the provider proposes should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*; and
  - (6) such other information as may be required pursuant to *information guidelines* in force under clause 6A.17.2.
- (g) If a *negative change event* occurs (whether or not the occurrence of that *negative change event* is notified by the provider to the *AER* under paragraph (f)) and the *AER* determines to impose a requirement on the provider in relation to that *negative change event* as described in paragraph (b), the *AER* must determine:
- (1) the *required pass through amount*; and
  - (2) taking into account the matters referred to in paragraph (j):
    - (i) how much of that *required pass through amount* should be passed through to *Transmission Network Users* ('the *negative pass through amount*'); and
    - (ii) the amount of that *negative pass through amount* that should be passed through to *Transmission Network Users* in each *regulatory year* during the *regulatory control period*.
- (h) A *Transmission Network Service Provider* must provide the *AER* with such information as the *AER* requires for the purpose of making a determination under paragraph (g) within the time specified by the *AER* in a notice provided to the provider by the *AER* for that purpose.

### **Consultation**

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

### **Relevant factors**

- (j) In making a determination under paragraph (d) or (g) in respect of a *Transmission Network Service Provider*, the *AER* must take into account:
  - (1) the matters and proposals set out in any statement given to the *AER* by the provider under paragraphs (c) or (f) (as the case may be);
  - (2) in the case of a *positive change event*, the increase in costs in the provision of *prescribed transmission services* that the provider has incurred and is likely to incur until the end of the *regulatory control period* as a result of the *positive change event*;
  - (3) in the case of a *positive change event*, the efficiency of the provider's decisions and actions in relation to the risk of the *positive change event*, including whether the provider has failed to take any action that could reasonably be taken to reduce the magnitude of the *eligible pass through amount* in respect of that *positive change event* and whether the provider has taken or omitted to take any action where

- such action or omission has increased the magnitude of the amount in respect of that *positive change event*;
- (4) the time cost of money based on the *weighted average cost of capital* for the provider for the relevant *regulatory control period*;
  - (5) the need to ensure that the provider only recovers any actual or likely increment in costs under this paragraph (j) to the extent that such increment is solely as a consequence of a *pass through event*;
  - (6) in the case of a *tax change event*, any change in the way another *tax* is calculated, or the removal or imposition of another *tax*, which, in the *AER's* opinion, is complementary to the *tax change event* concerned; and
  - (7) any other factors the *AER* considers relevant.

#### **6A.7.4 Service target performance incentive scheme**

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, develop and *publish* an incentive scheme ('a *service target performance incentive scheme*') that complies with the principles in paragraph (b).
- (b) The principles are that the *service target performance incentive scheme* should:
  - (1) provide incentives for each *Transmission Network Service Provider* to:
    - (i) provide greater *reliability* of the *transmission system* that is owned, controlled or operated by it at all times when *Transmission Network Users* place greatest value on the *reliability* of the *transmission system*; and
    - (ii) improve and maintain the *reliability* of those elements of the *transmission system* that are most important to determining *spot prices*;
  - (2) result in a potential adjustment to the revenue that the *Transmission Network Service Provider* may earn, from the provision of *prescribed transmission services*, in each *regulatory year* in respect of which the *service target performance incentive scheme* applies;
  - (3) ensure that the maximum revenue increment or decrement as a result of the operation of the *service target performance incentive scheme* will fall within a range that is between 1% and 5% of the *maximum allowed revenue* for the relevant *regulatory year*;
  - (4) take into account the *regulatory obligations* with which *Transmission Network Service Providers* must comply;
  - (5) take into account any other incentives provided for in the *Rules* that *Transmission Network Service Providers* have to minimise capital or operating expenditure; and

- (6) take into account the age and ratings of the assets comprising the relevant *transmission system*.
- (c) At the same time as it *publishes* a *service target performance incentive scheme*, the *AER* must also *publish* parameters (the *performance incentive scheme parameters*) for the scheme. For the avoidance of doubt, the parameters may differ as between *Transmission Network Service Providers* and over time.
- (d) The *AER* must set out in each *service target performance incentive scheme* any requirements with which the values attributed to the *performance incentive scheme parameters* must comply, and those requirements must be consistent with the principles set out in paragraph (b).
- (e) The *AER* must develop and *publish* the first *service target performance incentive scheme* under the *Rules* by 28 September 2007 and there must be a *service target performance incentive scheme* in force at all times after that date.
- (f) The *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace any scheme that is developed and *published* under this clause, except that no such amendment or replacement may change the application of the scheme to a *Transmission Network Service Provider* in respect of a *regulatory control period* that has commenced before, or that will commence within 15 months of, the amendment or replacement coming into operation.
- (g) Subject to paragraph (h) the *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the values to be attributed to the *performance incentive scheme parameters*.
- (h) An amendment or replacement referred to in paragraph (g) must not change the values to be attributed to the *performance incentive scheme parameters* where:
  - (1) those values must be included in information accompanying a *Revenue Proposal*; and
  - (2) the *Revenue Proposal* is required to be submitted under clause 6A.10.1(a) at a time that is within 2 months of the *publication* of the amended or replaced *performance incentive scheme parameters*.

## **6A.8 Contingent Projects**

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

- (a) A *Revenue Proposal* may include *proposed contingent capital expenditure*, which the *Transmission Network Service Provider* considers is reasonably required for the purpose of undertaking a *proposed contingent project*.
- (b) The *AER* must determine that a *proposed contingent project* is a *contingent project* if the *AER* is satisfied that:

- (1) the *proposed contingent project* is reasonably required to be undertaken in order to achieve any of the *capital expenditure objectives*;
  - (2) the *proposed contingent capital expenditure*:
    - (i) is not otherwise provided for (either in part or in whole) in the total of the forecast capital expenditure for the relevant *regulatory control period* which is accepted in accordance with clause 6A.6.7(c) or substituted in accordance with clauses 6A.13.2(b)(4) and (5) (as the case may be);
    - (ii) reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*, in the context of the *proposed contingent project* as described in the *Revenue Proposal*; and
    - (iii) exceeds either \$10 million or 5% of the value of the *maximum allowed revenue* for the relevant *Transmission Network Service Provider* for the first year of the relevant *regulatory control period* whichever is the larger amount;
  - (3) the *proposed contingent project* and the *proposed contingent capital expenditure*, as described or set out in the *Revenue Proposal*, and the information provided in relation to these matters, complies with the requirements of *submission guidelines* made under clause 6A.10.2; and
  - (4) the *trigger events* in relation to the *proposed contingent project* which are proposed by the *Transmission Network Service Provider* in its *Revenue Proposal* are appropriate.
- (c) In determining whether a *trigger event* in relation to a *proposed contingent project* is appropriate for the purposes of paragraph (b)(5), the *AER* must have regard to the need for:
- (1) a *trigger event* to be reasonably specific and capable of objective verification;
  - (2) a *trigger event* to be a condition or event, which, if it occurs, makes the undertaking of the *proposed contingent project* reasonably necessary in order to achieve any of the *capital expenditure objectives*;
  - (3) a *trigger event* to be a condition or event that generates increased costs or categories of costs that relate to a specific location rather than a condition or event that affects the *transmission network* as a whole;
  - (4) a *trigger event* to be described in such terms that the occurrence of that event or condition is all that is required for the *revenue determination* to be amended under clause 6A.8.2; and
  - (5) a *trigger event* to be an event or condition, the occurrence of which is probable during the *regulatory control period*, but the inclusion of



capital expenditure in relation to it under clause 6A.6.7 is not appropriate because:

- (i) it is not sufficiently certain that the event or condition will occur during the *regulatory control period* or if it may occur after that *regulatory control period* or not at all; or
- (ii) subject to the requirement to satisfy paragraph (b)(2)(iii), the costs associated with the event or condition are not sufficiently certain.

### **6A.8.2 Amendment of revenue determination for contingent project**

- (a) Subject to paragraph (b), a *Transmission Network Service Provider* may, during a *regulatory control period*, apply to the AER to amend a *revenue determination* that applies to that provider where a *trigger event* for a *contingent project* in relation to that *revenue determination* has occurred.
- (b) An application referred to in paragraph (a):
  - (1) must not be made within 90 *business days* prior to the end of a *regulatory year*;
  - (2) subject to subparagraph (1), must be made as soon as practicable after the occurrence of the *trigger event*;
  - (3) must contain the following information:
    - (i) an explanation that substantiates the occurrence of the *trigger event*;
    - (ii) a forecast of the total capital expenditure for the *contingent project*;
    - (iii) a forecast of the capital and incremental operating expenditure, for each remaining *regulatory year* which the *Transmission Network Service Provider* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (iv) how the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii);
    - (v) the intended date for commencing the *contingent project* (which must be during the *regulatory control period*);
    - (vi) the anticipated date for completing the *contingent project* (which may be after the end of the *regulatory control period*); and
    - (vii) an estimate of the incremental revenue which the *Transmission Network Service Provider* considers is likely to be required to be earned in each remaining *regulatory year* of the *regulatory control period* as a result of the *contingent project* being undertaken as described in subparagraph (iii); and
  - (4) the estimate referred to in subparagraph (3)(vii) must be calculated:

- (i) on the basis of the capital expenditure referred to in subparagraph (3)(iii);
  - (ii) on the basis of the rate of return for that *Transmission Network Service Provider* for the *regulatory control period* as determined pursuant to clause 6A.6.2;
  - (iii) consistently with the manner in which depreciation is calculated under clause 6A.6.3;
  - (iv) to include the incremental operating expenditure referred to in subparagraph (3)(iii); and
  - (v) in accordance with the requirements for roll forward in the *roll-forward model* and revenue calculation in the *post-tax revenue model*.
- (c) As soon as practicable after its receipt of an application made in accordance with paragraphs (a) and (b), the *AER* must *publish* the application, together with an invitation for written submissions on the application.
- (d) The *AER* must consider any written submissions made under paragraph (c) and must make its decision on the application within 30 *business days* of its receipt of that application. In doing so the *AER* may also take into account such other information as it considers appropriate, including any analysis (such as benchmarking) that is undertaken by it for that purpose.
- (e) If the *AER* is satisfied that the *trigger event* has occurred, and that the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii), it must:
  - (1) determine:
    - (i) the amount of capital and incremental operating expenditure, for each remaining *regulatory year* which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (ii) the total capital expenditure which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (iii) the likely commencement and completion dates for the *contingent project*; and
    - (iv) the incremental revenue which is likely to be required by the *Transmission Network Service Provider* in each remaining *regulatory year* as a result of the *contingent project* being undertaken as described in subparagraphs (i) and (ii), such estimate being calculated in accordance with subparagraph (2);
  - (2) calculate the estimate referred to in subparagraph (1)(iv):
    - (i) on the basis of the capital expenditure referred to in subparagraph (1)(i);

- (ii) to include the incremental operating expenditure referred to in subparagraph (1)(i); and
  - (iii) otherwise in accordance with paragraph (b)(4); and
- (3) amend the *revenue determination* in accordance with paragraph (h).
- (f) In making the determinations referred to in paragraph (e)(1), the *AER* must accept the relevant amounts and dates, contained in the *Transmission Network Service Provider's* application, as referred to in paragraphs (b)(3)(ii) - (vii), if the *AER* is satisfied that:
  - (1) the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii);
  - (2) the amounts of forecast capital expenditure and incremental operating expenditure reasonably reflect the *capital expenditure criteria* and the *operating expenditure criteria*, taking into account the *capital expenditure factors* and the *operating expenditure factors* respectively, in the context of the *contingent project*;
  - (3) the estimates of incremental revenue are reasonable; and
  - (4) the dates are reasonable.
- (g) In making the determinations referred to in paragraphs (e)(1) and (f), the *AER* must take into account:
  - (1) the information included in or accompanying the application;
  - (2) submissions received in the course of consulting on the application;
  - (3) such analysis as is undertaken by or for the *AER*;
  - (4) the expenditure that would be incurred in respect of a *contingent project* by an efficient and prudent operator in the circumstances of the *Transmission Network Service Provider*;
  - (5) the actual and expected capital expenditure of the *Transmission Network Service Provider* for *contingent projects* during any preceding *regulatory control periods*;
  - (6) the extent to which the forecast capital expenditure for the *contingent project* is referable to arrangements with a person other than the *Transmission Network Service Provider* that, in the opinion of the *AER*, do not reflect arm's length terms;
  - (7) the relative prices of operating and capital inputs in relation to the *contingent project*;
  - (8) efficient substitution possibilities between operating and capital expenditure in relation to the *contingent project*; and
  - (9) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the *service target performance incentive scheme* that is to apply to the provider in respect of the *regulatory control period*.

- (h) Amendments to a *revenue determination* referred to in paragraph (e)(3) must only vary the determination to the extent necessary:
  - (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of capital expenditure determined under paragraph (e)(1)(i) (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6A.6.7(c));
  - (2) to adjust the forecast operating expenditure for that *regulatory control period* to accommodate the amount of incremental operating expenditure determined under paragraph (e)(1)(i) (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6A.6.6(c));
  - (3) to reflect the effect of any resultant increase in forecast capital and operating expenditure on:
    - (i) the *maximum allowed revenue* for each *regulatory year* in the remainder of the *regulatory control period*; and
    - (ii) the X factor for each of the remaining *regulatory years* of the *regulatory control period*.
- (i) Amendments to a *revenue determination* take effect from the commencement of the next *regulatory year* of the *regulatory control period*.

## Part D - Negotiated Transmission Services - Regulation of Pricing

### 6A.9 Regulation of pricing

#### 6A.9.1 Pricing principles for negotiated transmission services

The following principles constitute the *Negotiated Transmission Service Pricing Principles*:

- (1) the price for a *negotiated transmission service* should be based on the costs incurred in providing that service, determined in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the relevant *Transmission Network Service Provider*;
- (2) subject to subparagraphs (3) and (4), the price for a *negotiated transmission service* should be at least equal to the avoided cost of providing it but no more than the cost of providing it on a stand alone basis;
- (3) if the *negotiated transmission service* is the provision of a *shared transmission service* that:
  - (i) exceeds the network performance requirements (if any) which that *shared transmission service* is required to meet under any *jurisdictional electricity legislation*; or

- (ii) exceeds the *network* performance requirements set out in schedules 5.1a and 5.1,

then the differential between the price for that service and the price for the *shared transmission service* which meets (but does not exceed) the *network* performance requirements under any *jurisdictional electricity legislation* or as set out in schedules 5.1a and 5.1 (as the case may be) should reflect the increase in the *Transmission Network Service Provider's* incremental cost of providing that service;

- (4) if the *negotiated transmission service* is the provision of a *shared transmission service* that does not meet (and does not exceed) the *network* performance requirements set out in schedules 5.1a and 5.1, the differential between the price for that service and the price for the *shared transmission service* which meets (but does not exceed) the *network* performance requirements set out in schedules 5.1a and 5.1 should reflect the amount of the *Transmission Network Service Provider's* avoided cost of providing that service;
- (5) the price for a *negotiated transmission service* must be the same for all *Transmission Network Users* unless there is a material difference in the costs of providing the *negotiated transmission service* to different *Transmission Network Users* or classes of *Transmission Network Users*;
- (6) the price for a *negotiated transmission service* should be subject to adjustment over time to the extent that the assets used to provide that service are subsequently used to provide services to another person, in which case such adjustment should reflect the extent to which the costs of that asset is being recovered through charges to that other person;
- (7) the price for a *negotiated transmission service* should be based on terms and conditions which are consistent with the safe and reliable operation of the *power system* in accordance with the *Rules*;
- (8) the price for a *negotiated transmission service* should be such as to enable the *Transmission Network Service Provider* to recover the efficient costs of complying with all *regulatory obligations* associated with the provision of the *negotiated transmission service*; and
- (9) the price for a *negotiated transmission service* should take into account the need for the service to be provided in a manner that does not adversely affect the safe and *reliable* operation of the *power system* in accordance with the *Rules*.

#### **6A.9.2 Determination of prices for negotiated transmission services**

- (a) A *Transmission Network Service Provider* must comply with:
  - (1) the provider's *negotiating framework*; and
  - (2) the provider's *Negotiated Transmission Service Pricing Criteria*,

when the provider is negotiating the charges for *negotiated transmission services* to be provided to a person.

- (b) The *Transmission Network Service Provider* must also comply with any other applicable requirements of the *Rules*, including the requirements of:
  - (1) rules 5.3 and 5.4A, when negotiating for the provision of *connection services* and the associated *connection service charges*; and
  - (2) rule 5.4A when negotiating the *use of system services charges* and *access charges* to be paid to or by a *Transmission Network User*.

### **6A.9.3 Negotiating framework determination**

The determination specifying requirements relating to the *negotiating framework* forming part of a *transmission determination* for a *Transmission Network Service Provider* is to set out requirements that are to be complied with in respect of the preparation, replacement, application or operation of its *negotiating framework*.

### **6A.9.4 Negotiated transmission pricing criteria determination**

- (a) The determination by the *AER* specifying the *Negotiated Transmission Service Pricing Criteria* forming part of a *transmission determination* for a *Transmission Network Service Provider* is to set out the criteria that are to be applied:
  - (1) by the provider in negotiating:
    - (i) the prices that are to be charged for the provision of *negotiated transmission services* by the provider for the relevant *regulatory control period*; and
    - (ii) any *access charges* which are negotiated by the provider during that *regulatory control period*; and
  - (2) by a *commercial arbitrator* in resolving any dispute, between the *Transmission Network Service Provider* and a person who wishes to receive a *negotiated transmission service*, in relation to:
    - (i) the price that is to be charged for the provision of that service by the provider; and
    - (ii) any *access charges* that are to be paid to or by the provider.
- (b) The *Negotiated Transmission Service Pricing Criteria* must give effect to and be consistent with the *Negotiated Transmission Service Pricing Principles* set out in clause 6A.9.1.

### **6A.9.5 Preparation of and requirements for negotiating framework**

- (a) A *Transmission Network Service Provider* must prepare a document (the *negotiating framework*) setting out the procedure to be followed during negotiations between that provider and any person (the *Service Applicant* or applicant) who wishes to receive a *negotiated transmission service* from the provider, as to the price at which the service is to be provided.

- (b) The *negotiating framework* for a *Transmission Network Service Provider* must comply with and be consistent with:
- (1) the applicable requirements of a *transmission determination* applying to the provider; and
  - (2) paragraph (c), which sets out the minimum requirements for a *negotiating framework*.
- (c) The *negotiating framework* for a *Transmission Network Service Provider* must specify:
- (1) a requirement for the provider and a *Service Applicant* to negotiate in good faith the price at which the *negotiated transmission service* is to be provided;
  - (2) a requirement for the provider to provide all such commercial information as a *Service Applicant* may reasonably require to enable that applicant to engage in effective negotiation with the provider as to the price at which the *negotiated transmission service* is to be provided, including the cost information described in subparagraph (3);
  - (3) a requirement for the provider to:
    - (i) identify and inform a *Service Applicant* of the reasonable costs and/or the increase or decrease in costs (as appropriate) of providing the *negotiated transmission service*; and
    - (ii) demonstrate to a *Service Applicant* that the charges for providing the *negotiated transmission service* reflect those costs and/or the cost increment or decrement (as appropriate);
  - (4) a requirement for a *Service Applicant* to provide all such commercial information as the provider may reasonably require to enable the provider to engage in effective negotiation with that applicant as to the price at which the *negotiated transmission service* is to be provided;
  - (5) a reasonable period of time for commencing, progressing and finalising negotiations with a *Service Applicant* as to the price at which the *negotiated transmission service* is to be provided, and a requirement that each party to the negotiation must use its reasonable endeavours to adhere to those time periods during the negotiation;
  - (6) a process for dispute resolution which provides that all disputes as to the price at which *negotiated transmission services* are to be provided are to be dealt with in accordance with schedule 6A.3; and
  - (7) the arrangements for payment by a *Service Applicant* of the provider's reasonable direct expenses incurred in processing the application to provide the *negotiated transmission service*.

- (d) Notwithstanding the foregoing, the *negotiating framework* must not be inconsistent with any of the requirements of rules 5.3, 5.4A and Part C of this Chapter 6A and, in the event of any inconsistency, those requirements prevail.
- (e) Each *Transmission Network Service Provider* and *Service Applicant* who is negotiating for the provision of a *negotiated transmission service* by the provider must comply with the requirements of the *negotiating framework* in accordance with its terms.
- (f) A reference in paragraph (c) to the price at which a service is to be provided includes a reference to an *access charge*.

#### **6A.9.6 Confidential information**

- (a) Commercial information which is required to be provided to a *Service Applicant* in accordance with clause 6A.9.5(c)(2):
  - (1) does not include confidential information provided to the *Transmission Network Service Provider* by another person; and
  - (2) may be provided subject to a condition that a *Service Applicant* must not provide any part of that commercial information to any other person without the consent of the *Transmission Network Service Provider* which provided the information to that applicant.
- (b) Commercial information which is required to be provided to a *Transmission Network Service Provider* in accordance with clause 6A.9.5(c)(4):
  - (1) does not include confidential information provided to a *Service Applicant* by another person; and
  - (2) may be provided subject to a condition that the provider must not provide any part of that commercial information to any other person without the consent of the *Service Applicant* which provided the information to the provider.

#### **6A.9.7 No requirement to provide services**

Nothing in this rule 6A.9 is to be taken as imposing an obligation on a *Transmission Network Service Provider* to provide any service to the *Service Applicant*.

#### **6A.9.8 Commercial arbitration for negotiated transmission services**

Schedule 6A.3 applies to any dispute which may arise between a *Transmission Network Service Provider* and a *Service Applicant* as to the price which the provider proposes to charge the *Service Applicant* for a *negotiated transmission service* or as to the amount of any *access charge*.



## **Part E - Procedure – Revenue determinations and negotiating frameworks**

### **6A.10 Revenue Proposal and proposed negotiating framework**

#### **6A.10.1 Submission of proposal, framework and information**

- (a) A *Transmission Network Service Provider* must submit to the *AER* a *Revenue Proposal* relating to the *prescribed transmission services* that are provided by means of, or in connection with, a *transmission system* that is owned, controlled or operated by that provider:
  - (1) if any of those *prescribed transmission services* are subject to a *transmission determination*, 13 months before the expiry of the period in respect of which that *transmission determination* applies; or
  - (2) if any of those *prescribed transmission services* are not subject to a *transmission determination*, 3 months after being required to do so by the *AER*.
- (b) At the same time as it submits a *Revenue Proposal* under paragraph (a), the provider must also submit to the *AER* a proposed *negotiating framework*.
- (c) The *Revenue Proposal* and the proposed *negotiating framework* must comply with the requirements of, and must contain or be accompanied by such information as is required by, the *submission guidelines* made for that purpose under this rule 6A.10.
- (d) The proposed *negotiating framework* must also comply with the requirements of clause 6A.9.5.

#### **6A.10.2 Submission guidelines**

- (a) The *AER* must make guidelines, referred to as '*submission guidelines*', for the purposes of this Part E.
- (b) The *submission guidelines* must specify:
  - (1) the form of a *Revenue Proposal* and *negotiating framework*;
  - (2) the requirements for any information contained in or accompanying the *Revenue Proposal* to be audited or otherwise verified;
  - (3) what parts (if any) of the *Revenue Proposal* or the information accompanying it will not be publicly disclosed without the consent of the *Transmission Network Service Provider*, with the presumption being that at least the matters or information referred to in the following clauses will be publicly disclosed:
    - (i) clause S6A.1.1;
    - (ii) clause S6A.1.2;
    - (iii) clauses S6A.1.3(1)-(3), (4)(i) and (ii), (6), (8) and (9); and
    - (iv) clauses 6A.10.2(b)(7) and (8);

- (4) that the *Revenue Proposal* must contain at least the information and matters relating to capital expenditure set out in clause S6A.1.1;
  - (5) that the *Revenue Proposal* must contain at least the information and matters relating to operating expenditure set out in clause S6A.1.2;
  - (6) that the *Revenue Proposal* must contain at least the additional information and matters set out in clause S6A.1.3;
  - (7) that the *Revenue Proposal* must be accompanied by such information as is necessary to enable the *AER* and other interested parties to understand the manner in which the *Transmission Network Service Provider* proposes that negotiations as to the price of *negotiated transmission services* or the amount of *access charges* will be conducted in accordance with the provider's proposed *negotiating framework*;
  - (8) such other information as the *AER* considers should be contained in, or should accompany, a *Revenue Proposal* on the basis that such information is necessary to enable the *AER* and other interested parties to:
    - (i) understand how the *Transmission Network Service Provider* derived the elements of its *Revenue Proposal*; and
    - (ii) form an opinion as to whether the *Revenue Proposal* complies with the requirements of Parts B and E of this Chapter 6A; and
  - (9) in the case of amounts, values or inputs that:
    - (i) cannot be determined before the submission of the *Revenue Proposal*; or
    - (ii) are required to be estimated, approved or otherwise determined by the *AER* but are not so estimated, approved or otherwise determined before the submission of the *Revenue Proposal*,what amounts, values or inputs are to be used in their place for the purposes of the *Revenue Proposal* or revised *Revenue Proposal* (as the case may be).
- (c) Without limiting any other provision of this rule 6A.10, the *submission guidelines* must provide that:
- (1) the information accompanying the *Revenue Proposal* must include:
    - (i) the *post-tax revenue model*, completed in such a way as to show its application to the *Transmission Network Service Provider*; and
    - (ii) the completed *roll forward model*; and
  - (2) the completed *post-tax revenue model* and proposed *roll forward model*, and the information in those models, will not be publicly disclosed without the consent of the provider, except to the extent that the information is aggregated or otherwise available apart from it being contained in those models.

- (d) The *AER* must, in accordance with the *transmission consultation procedures*, develop and make the *submission guidelines* by 28 September 2007, and there must be *submission guidelines* available at all times after that date.
- (e) The *submission guidelines* may be amended or replaced by the *AER* from time to time, in accordance with the *transmission consultation procedures*.

## **6A.11 Preliminary examination and consultation**

### **6A.11.1 Preliminary examination and determination of non-compliance with submission guidelines**

- (a) If the *AER* determines that:
  - (1) a *Revenue Proposal* submitted by a *Transmission Network Service Provider*;
  - (2) a proposed *negotiating framework* submitted by the provider; or
  - (3) information contained in or accompanying such a *Revenue Proposal* or proposed *negotiating framework*,under clause 6A.10.1 does not comply with the requirements of the *submission guidelines*, or clause 6A.9.5 (in respect of the proposed *negotiating framework*) the *AER* must notify the provider of that determination as soon as practicable after receiving that *Revenue Proposal*, proposed *negotiating framework* or information (as the case may be).
- (b) A determination referred to in paragraph (a) must be accompanied by written reasons that set out:
  - (1) the respects in which the *Revenue Proposal*, proposed *negotiating framework* or information does not comply with the relevant requirements of the *submission guidelines* or clause 6A.9.5 (as the case may be) and the requirements that have not been complied with; and
  - (2) in the case of information which does not comply with those requirements, the reason that the submission of information in accordance with those requirements would assist the *AER* in assessing the *Revenue Proposal* or proposed *negotiating framework*.

### **6A.11.2 Resubmission of proposal, framework or information**

- (a) If the *AER* notifies a *Transmission Network Service Provider* of a determination under clause 6A.11.1, the provider must, within 1 month of that notice, resubmit its *Revenue Proposal*, proposed *negotiating framework* or the required information (as the case may be) in a form that complies with the relevant requirements set out in that determination.
- (b) A *Transmission Network Service Provider* may only make changes to its *Revenue Proposal* for the purposes of paragraph (a) to address the matters raised in the determination under clause 6A.11.1.

### **6A.11.3 Consultation**

- (a) Except to the extent that the *submission guidelines* provide it will not be publicly disclosed (and, in that case, the relevant *Transmission Network Service Provider* has not otherwise consented), the *AER* must *publish*:
- (1) the *Revenue Proposal*;
  - (2) the proposed *negotiating framework*; and
  - (3) the information,  
submitted or resubmitted to it by the provider under rules 6A.9, 6A.10 or 6A.11, together with:
- (4) the *AER's* proposed *Negotiated Transmission Service Pricing Criteria* for the provider; and
  - (5) an invitation for written submissions on the documents and information referred to in subparagraphs (1) - (4),  
as soon as practicable after the *AER* determines that the *Revenue Proposal*, proposed *negotiating framework* and information comply with the requirements of the *submission guidelines* or clause 6A.9.5.
- (b) The *AER* may *publish* an issues paper examining the issues raised in connection with the *Revenue Proposal*, the proposed *negotiating framework* and the proposed *Negotiated Transmission Service Pricing Criteria*, at the same time as, or subsequent to, *publication* of the invitation to make submissions referred to in paragraph (a)(5).
- (c) Any person may make a written submission to the *AER* on the *Revenue Proposal*, the proposed *negotiating framework* or the proposed *Negotiated Transmission Service Pricing Criteria* for the provider within the time specified in the invitation referred to in paragraph (a)(5), which must be not earlier than 30 *business days* after the invitation for submissions is *published* under that paragraph.

## **6A.12 Draft decision and further consultation**

### **6A.12.1 Making of draft decision**

- (a) Subject to rule 6A.16(a), the *AER* must consider any written submissions made under rule 6A.11 and must make a draft decision in relation to the *Transmission Network Service Provider*.
- (b) The *AER's* draft decision must be made in accordance with, and must comply with, the relevant requirements of rule 6A.14.
- (c) If the *AER* refuses to approve any of the amounts or values referred to in clause 6A.14.1(1), the *AER's* draft decision must include details of the changes required or matters to be addressed before the *AER* will approve those amounts or values.

- (d) If the *AER* refuses to approve the proposed *negotiating framework*, the *AER*'s draft decision must include details of the changes required or matters to be addressed before the *AER* will approve the framework.

#### **6A.12.2 Publication of draft decision and consultation**

- (a) The *AER* must, as soon as practicable but not later than 6 months after the relevant date referred to in clause 6A.10.1(a), *publish*:
  - (1) its draft decision and reasons under clause 6A.12.1 and rule 6A.14;
  - (2) notice of the making of the draft decision;
  - (3) notice of a predetermination conference; and
  - (4) an invitation for written submissions on its draft decision.
- (b) The *AER* must hold a predetermination conference at the time, date and place specified in the notice under paragraph (a)(3) for the purpose of explaining its draft decision and receiving oral submissions from interested parties. Any person may attend such a predetermination conference but the procedure to be adopted at the conference will be at the discretion of the senior *AER* representative in attendance.
- (c) Any person may make a written submission to the *AER* on the draft decision within the time specified in the invitation referred to in paragraph (a)(4), which must be not earlier than 45 *business days* after the holding of a predetermination conference.

#### **6A.12.3 Submission of revised proposal or framework**

- (a) In addition to making such other written submissions as it considers appropriate, the *Transmission Network Service Provider* may, not more than 30 *business days* after the publication of the draft decision, submit to the *AER*:
  - (1) a revised *Revenue Proposal*; or
  - (2) a revised proposed *negotiating framework*.
- (b) A *Transmission Network Service Provider* may only make the revisions referred to in paragraph (a) so as to incorporate the substance of any changes required by, or to address matters raised in, the draft decision.
- (c) A revised *Revenue Proposal* or revised proposed *negotiating framework* must comply with the requirements of, and must contain or be accompanied by such information as is required by, the *submission guidelines*.
- (d) The revised proposed *negotiating framework* must also comply with the requirements of clause 6A.9.5.
- (e) Except to the extent that the *submission guidelines* provide it will not be publicly disclosed (and, in that case, the *Transmission Network Service Provider* has not otherwise consented), the *AER* must *publish*:
  - (1) any revised *Revenue Proposal*; or
  - (2) any revised proposed *negotiating framework*,

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

## **6A.13 Final decision**

### **6A.13.1 Making of final decision**

- (a) Subject to rule 6A.16(a), the *AER* must consider any submissions made on the draft decision, or on any revised *Revenue Proposal* or revised proposed *negotiating framework* submitted to it under clause 6A.12.3, and must make a final decision in relation to the *Transmission Network Service Provider*.
- (b) The *AER*'s final decision must be made in accordance with, and must comply with, the relevant requirements of rule 6A.14.

### **6A.13.2 Refusal to approve amounts, values or framework**

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

the *AER* must:

- (3) where subparagraph (1) applies, include in its final decision (in addition to the estimate referred to in clause 6A.14.1(3)(ii)) the forecast operating expenditure for each *regulatory year* which the *AER* is satisfied reasonably reflects the *operating expenditure criteria*, taking into account the *operating expenditure factors*, subject only to the requirement that the total of such forecasts must equate to the estimate referred to in clause 6A.14.1(3)(ii);
- (4) where subparagraph (2) applies, include in its final decision (in addition to the estimate referred to in clause 6A.14.1(2)(ii)) the forecast capital expenditure for each *regulatory year* which the *AER* is satisfied reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*, subject only to the

requirement that the total of such forecasts must equate to the estimate referred to in clause 6A.14.1(2)(ii); and

- (5) use each such amount (and its components) in place of the forecast of required operating or capital expenditure that is included in the current *Revenue Proposal* for the purposes of calculating the amount or value that it has refused to approve in its final decision.
- (c) If the AER's final decision is to refuse to approve the proposed *negotiating framework* referred to in clause 6A.14.1(6), the AER must include in its final decision an amended *negotiating framework* which is:
- (1) determined on the basis of the current proposed *negotiating framework*; and
  - (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the *Rules*.

### **6A.13.3 Notice of final decision**

The AER must as soon as practicable, but not later than 2 months before the commencement of the relevant *regulatory control period*, publish:

- (1) notice of the making of the final decision; and
- (2) the final decision, including the reasons required to be included in it.

### **6A.13.4 Making of transmission determination**

The AER must, as soon as practicable after making its final decision, make the *transmission determination* to which the final decision relates.

## **6A.14 Requirements relating to draft and final decisions**

### **6A.14.1 Contents of decisions**

A draft decision under rule 6A.12 or a final decision under rule 6A.13 is a decision by the AER:

- (1) on the *Transmission Network Service Provider's* current *Revenue Proposal* in which the AER either approves or refuses to approve:
  - (i) the *total revenue cap* for the provider for the *regulatory control period*;
  - (ii) the *maximum allowed revenue* for the provider for each *regulatory year* of the *regulatory control period*;
  - (iii) the values that are to be attributed to the *performance incentive scheme parameters* for the *service target performance incentive scheme* that is to apply to the provider in respect of the *regulatory control period*;
  - (iv) the values that are to be attributed to the *efficiency benefit sharing scheme parameters* for the *efficiency benefit sharing scheme* that is to apply to the provider in respect of the *regulatory control period*; and

- (v) the commencement and length of the *regulatory control period* that has been proposed by the provider,  
as set out in the *Revenue Proposal*, setting out the reasons for the decision;
- (2) in which the AER either:
  - (i) acting in accordance with clause 6A.6.7(c), accepts the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*; or
  - (ii) acting in accordance with clause 6A.6.7(d), does not accept the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*, in which case the AER must set out its reasons for that decision and an estimate of the total of the *Transmission Network Service Provider's* required capital expenditure for the *regulatory control period* that the AER is satisfied reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*;
- (3) in which the AER either:
  - (i) acting in accordance with clause 6A.6.6(c), accepts the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*; or
  - (ii) acting in accordance with clause 6A.6.6(d), does not accept the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*, in which case the AER must set out its reasons for that decision and an estimate of the total of the *Transmission Network Service Provider's* required operating expenditure for the *regulatory control period* that the AER is satisfied reasonably reflects the *operating expenditure criteria*, taking into account the *operating expenditure factors*;
- (4) in which the AER determines:
  - (i) whether each of the *proposed contingent projects* (if any) described in the current *Revenue Proposal* are *contingent projects* for the purposes of the *revenue determination* in which case the decision must clearly identify each of those *contingent projects*;
  - (ii) the capital expenditure that it is satisfied reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*, in the context of each *contingent project* as described in the current *Revenue Proposal*;
  - (iii) the *trigger events* in relation to each *contingent project* (in which case the decision must clearly specify those *trigger events*); and



- (iv) if the *AER* determines that such a *proposed contingent project* is not a *contingent project* for the purposes of the *revenue determination*, its reasons for that conclusion, having regard to the requirements of clause 6A.8.1(b);
- (5) in which the *AER* sets out the amounts, values or inputs that it has used in place of those referred to in clause 6A.10.2(b)(9);
- (6) on the provider's current proposed *negotiating framework*, in which the *AER* either approves or refuses to approve the proposed *negotiating framework*, setting out reasons for its decision; and
- (7) in which the *AER* specifies the *Negotiated Transmission Service Pricing Criteria* for the *Transmission Network Service Provider*, setting out the reasons for the decision.

#### **6A.14.2 Reasons for decisions**

The reasons given by the *AER* for a draft decision under rule 6A.12 or a final decision under rule 6A.13 must set out the basis and rationale of the decision, including:

- (1) details of the qualitative and quantitative methodologies applied in any calculations and formulae made or used by the *AER* for the purposes of its decision;
- (2) the values adopted by the *AER* for each of the input variables in any calculations and formulae, including:
  - (i) whether those values have been taken or derived from the provider's current *Revenue Proposal*; and
  - (ii) if not, the rationale for the adoption of those values;
- (3) details of any assumptions made by the *AER* in undertaking any material qualitative and quantitative analyses for the purposes of the decision; and
- (4) reasons for the making of any decisions, the giving or withholding of any approvals, and the exercise of any discretions, as referred to in Part C of this Chapter 6A, for the purposes of the decision.

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

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

- (2) the *maximum allowed revenue* for the provider for each *regulatory year* of the *regulatory control period*,

as set out in the current *Revenue Proposal*, if the *AER* is satisfied that:

- (3) those amounts have been properly calculated using the *post-tax revenue model*; and
- (4) those amounts, and any amount required to be calculated, determined or forecast for the purposes of calculating those amounts, have otherwise been calculated, determined or forecast in accordance with the requirements of Part C of this Chapter 6A, (for these purposes, the *AER* is taken to be so satisfied in respect of a particular amount if another provision of this Chapter 6A requires the *AER* to approve or accept that amount).

- (c) If a *Transmission Network Service Provider's* revised *Revenue Proposal* submitted under clause 6A.12.3(a) includes:

- (1) an amount of total forecast capital expenditure for the *regulatory control period* that is the same as that accepted or estimated (as the case may be) by the *AER* in a draft decision under rule 6A.12; or
- (2) an amount of total forecast operating expenditure for the *regulatory control period* that is the same as that accepted or estimated (as the case may be) by the *AER* in a draft decision under rule 6A.12,

then, except to the extent that:

- (3) either or both of the following apply:
  - (i) other changes have been made in the revised *Revenue Proposal*; or
  - (ii) the information contained in or accompanying the revised *Revenue Proposal* differs from that contained in or accompanying the previous *Revenue Proposal*; and
- (4) the changes are such that the *AER* is not satisfied as referred to in clauses 6A.6.6(c) or 6A.6.7(c) (as the case may be),

the *AER*, in its final decision, must accept the forecast of required operating expenditure or of required capital expenditure (as the case may be) that is included in the revised *Revenue Proposal*.

- (d) The *AER* must approve:

- (1) the values that are to be attributed to the *performance incentive scheme parameters* for the *service target performance incentive scheme* that is to apply to a *Transmission Network Service Provider* in respect of a *regulatory control period*; and
- (2) the values that are to be attributed to the *efficiency benefit sharing scheme parameters* for the *efficiency benefit sharing scheme* that is to apply to a *Transmission Network Service Provider* in respect of a *regulatory control period*,

as set out in the current *Revenue Proposal*, if the *AER* is satisfied that those values comply with the requirements relating to them set out in the *service target performance incentive scheme* or the *efficiency benefit sharing scheme* (as the case may be).

- (e) The *AER* must approve the commencement and length of the *regulatory control period* as proposed by a *Transmission Network Service Provider* in the provider's current *Revenue Proposal* if the length of the *regulatory control period* as so proposed is 5 *regulatory years*.
- (f) The *AER* must approve a *Transmission Network Service Provider's* current proposed *negotiating framework* if the *AER* is satisfied that the relevant proposed *negotiating framework* meets the requirements set out in clause 6A.9.5(c).
- (g) If a *Transmission Network Service Provider's* revised *Revenue Proposal* or revised proposed *negotiating framework* (as the case may be) submitted under clause 6A.12.3(a):
  - (1) contains the changes required under clause 6A.12.1(c); or
  - (2) does not contain those changes but otherwise (in the *AER's* view), adequately addresses the matters which prompted the *AER* to require those changes,

then, except to the extent that:

- (3) either or both of the following apply:
  - (i) other changes have been made in the revised *Revenue Proposal* or the revised proposed *negotiating framework*, by the provider; or
  - (ii) the information contained in or accompanying the revised *Revenue Proposal* or revised proposed *negotiating framework* differs from that contained in or accompanying the previous *Revenue Proposal* or proposed *negotiating framework* submitted or resubmitted; and
- (4) the changes would justify the *AER*, in its final decision, in refusing to approve the amounts or values referred to in clause 6A.14.1(5) or the proposed *negotiating framework* referred to in clause 6A.13.2(c),

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

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

### **6A.15 Revocation and substitution of revenue determination for wrong information or error**

- (a) Except as provided in clause 6A.7.1(d), the *AER* may only revoke a *revenue determination* during a *regulatory control period* where it appears to the *AER* that:
  - (1) the *total revenue cap* was set on the basis of information provided by or on behalf of the relevant *Transmission Network Service Provider* to the *AER* that was false or misleading in a material particular; or
  - (2) there was a material error in the setting of the *total revenue cap*.
- (b) If the *AER* revokes a *revenue determination* under paragraph (a), the *AER* must make a new *revenue determination* in substitution for the revoked *revenue determination* to apply for the remainder of the *regulatory control period* for which the revoked *revenue determination* was to apply.
- (c) If the *AER* revokes a *revenue determination* under paragraph (a)(2), the substituted *revenue determination* must only vary from the revoked *revenue determination* to the extent necessary to correct the relevant error.
- (d) The *AER* may only revoke and substitute a *revenue determination* under this rule 6A.15, if it has first consulted with the relevant *Transmission Network Service Provider* and such other persons as it considers appropriate.

### **6A.16 Miscellaneous**

- (a) The *AER* may, but is not required to, consider any submission made pursuant to an invitation for submissions after the time for making the submission has expired.
- (b) Nothing in this Part E is to be construed as precluding the *AER* from *publishing* any issues, consultation and discussion papers, or holding any conferences and information sessions, that the *AER* considers appropriate.
- (c) Subject to paragraph (d), as soon as practicable after the *AER* receives a submission in response to an invitation referred to in clause 6A.11.3(a)(5) or 6A.12.2(a)(4) (whether or not the submission was made before the time for making it has expired), the *AER* must *publish* that submission.
- (d) The *AER* must not *publish* a submission referred to in paragraph (c) to the extent it contains information which has been clearly identified as confidential by the person making the submission.
- (e) The *AER* may give such weight to confidential information identified in accordance with paragraph (d) in a submission as it considers appropriate, having regard to the fact that such information has not been made publicly available.
- (f) Paragraph (d) does not apply to the extent that any other provision of the *Rules* permits or requires such information to be publicly released by the *AER*.

## Part F - Information Disclosure

### 6A.17 Information disclosure by Transmission Network Service Providers

#### 6A.17.1 Information to be provided to AER

- (a) In this rule 6A.17, '**certified annual statement**' means an annual statement provided by a *Transmission Network Service Provider* under this rule 6A.17 and certified in accordance with the *information guidelines*.
- (b) A *Transmission Network Service Provider* must submit to the *AER*, in the manner and form set out in the *information guidelines*, annual statements that:
  - (1) provide a true and fair statement of the financial and operating performance of the provider;
  - (2) are certified in accordance with the *information guidelines*; and
  - (3) otherwise comply with the requirements of this clause and the *information guidelines*.
- (c) In addition to the certified annual statements, the *AER* may require a *Transmission Network Service Provider* to provide, by a date and in the form and manner specified by the *AER*, any additional information the *AER* reasonably requires for a purpose set out in paragraph (d).
- (d) The certified annual statements and additional information provided by a *Transmission Network Service Provider* to the *AER* under this rule 6A.17 may be used by the *AER* only for the following purposes:
  - (1) to monitor, report on and enforce the compliance of the provider with the *total revenue cap* for the provider for a *regulatory control period*, the *maximum allowed revenue* for the provider for each *regulatory year*, and any requirements that are imposed on the provider under a *transmission determination*;
  - (2) to monitor, report on and enforce compliance with the provider's *Cost Allocation Methodology*;
  - (3) as an input regarding the financial, economic and operational performance of the provider, to inform the *AER's* decision-making for the making of *revenue determinations* or other regulatory controls to apply in future *regulatory control periods*; and
  - (4) to monitor and report on the performance of the provider under any *service target performance incentive scheme* that applies to it.
- (e) The *AER* may request or undertake verification or independent audit of any information sought by it, or provided to it, under this rule 6A.17.

## 6A.17.2 Information Guidelines

### Preparation, publication and amendment of Information Guidelines

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, prepare and *publish information guidelines*.
- (b) The *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the *information guidelines*.
- (c) The *AER* must develop and publish the first *information guidelines* by 28 September 2007 and there must be *information guidelines* available at all times after that date.

### Contents of information guidelines

- (d) The *information guidelines* must provide for the manner and form in which *Transmission Network Service Providers* must submit certified annual statements to the *AER*, including the date each year by which those statements must be submitted to the *AER*.
- (e) The *information guidelines* may only require the inclusion in the certified annual statements of such information as the *AER* reasonably requires for a purpose set out in clause 6A.17.1(d).

**Note:** The draft National Electricity Amendment (Pricing of Prescribed Transmission Services) 2006, when made, will amend Chapter 6A, and clause 6A.17.2(e) will be amended to include additional pricing related information content for the information guidelines. Clause 11.6.22 makes interim provision for these requirements to be included in the initial guidelines.

- (f) The *information guidelines* may provide for the information that must accompany a written statement seeking approval of the *AER* to pass through a *positive pass through amount* or a *negative pass through amount* under clause 6A.7.3

## 6A.18 Information disclosure by the AER

### 6A.18.1 Introduction

- (a) In this rule 6A.18, ‘**protected information**’ means information in certified annual statements, or additional information, provided by a *Transmission Network Service Provider* to the *AER*, under rule 6A.17, and includes documents and information contained in documents provided under rule 6A.17, but does not include:
  - (1) information referred to in clause 6A.17.1(d)(4); and
  - (2) information that is required to be provided in accordance with the *submission guidelines* referred to in clause 6A.10.2 where those guidelines permit the information to be publicly disclosed.
- (b) The *AER* may publicly release protected information if and only to the extent it is permitted to do so under this rule 6A.18.
- (c) Protected information must be treated as confidential by the *AER* and must not be publicly released unless:

- (1) the provider has given its prior written consent to the public release of the information; or
- (2) the procedures set out in clause 6A.18.3 have been followed.

#### **6A.18.2 Release of protected information with consent**

The *AER* may publicly release protected information with the prior written consent of the *Transmission Network Service Provider* that provided the information to the *AER*.

#### **6A.18.3 Release of protected information in other circumstances**

- (a) The *AER* may publicly release protected information in circumstances where the *Transmission Network Service Provider* that provided the information to the *AER* has declined to give written consent to its release if the disclosure is reasonably necessary for a purpose set out in clause 6A.17.1(d) and the applicable procedures set out in paragraphs (c) and (d) have been followed and either:
  - (1) the protected information is published in a form that aggregates the information in so far as it relates to a *Transmission Network Service Provider*; or
  - (2) the *AER* is of the view that:
    - (i) the disclosure of the protected information would not cause detriment to the provider; or
    - (ii) although the disclosure of the protected information would cause detriment to the provider that provided it, the public benefit in disclosing it outweighs that detriment.
- (b) The *AER* must not publicly release any protected information in a non-aggregated form, if that information relates to a person that is unrelated to the *Transmission Network Service Provider*, and that person has not provided consent to the release of the protected information.
- (c) The *AER* must not publicly release any protected information under paragraph (a)(2) until the expiration of 28 *business days* from the date on which a written notice of the *AER's* intention to disclose is served on:
  - (1) the *Transmission Network Service Provider* that provided the information or documents containing the information; or
  - (2) any person whom the *AER* is aware provided the *Transmission Network Service Provider* with the information or documents containing information provided to the *AER* by the provider.
- (d) The notice referred to in paragraph (c) must:
  - (1) state that the *AER* wishes to disclose the protected information, specifying the nature of the intended disclosure and setting out detailed reasons why the *AER* wishes to make the disclosure;

- (2) specify the form of the intended disclosure of the protected information;
  - (3) in the case of a disclosure under paragraph (a)(2), state that the *AER* has formed the views required by paragraph (a)(2) and set out detailed reasons why it has formed those views; and
  - (4) state that the *AER's* decision to disclose the information or contents of the document can be reviewed under the *ADJR Act*.
- (e) Where as a result of a review, under the *ADJR Act*, of its decision to publicly release protected information, the *AER* is not allowed to publicly release particular protected information provided to it for a purpose set out in clause 6A.17.1(d), the *AER* may nonetheless use the information for that purpose (except to the extent that the purpose would require the public release of the information or document).
- (f) Nothing in paragraphs (c) and (d) affects a *Registered Participant's* rights to seek a review under general principles of administrative law of the *AER's* decision to publicly release any information or the contents of any documents under paragraph (a).

## **Part G - Cost Allocation**

### **6A.19 Cost allocation**

#### **6A.19.1 Duty to comply with Cost Allocation Methodology**

A *Transmission Network Service Provider* must comply with the *Cost Allocation Methodology* that has been approved in respect of that provider from time to time by the *AER* under this rule 6A.19.

#### **6A.19.2 Cost Allocation Principles**

The following principles constitute the *Cost Allocation Principles*:

- (1) the detailed principles and policies used by a *Transmission Network Service Provider* to allocate costs between different categories of *transmission services* must be described in sufficient detail to enable the *AER* to replicate reported outcomes through the application of those principles and policies;
- (2) the allocation of costs must be determined according to the substance of a transaction or event rather than its legal form;
- (3) only the following costs may be allocated to a particular category of *transmission services*:
  - (i) costs which are directly attributable to the provision of those services; and
  - (ii) costs which are not directly attributable to the provision of those services but which are incurred in providing those services, in which case such costs must be allocated to the



provision of those services using an appropriate allocator which should:

- (A) except to the extent the cost is immaterial or a causal based method of allocation cannot be established without undue cost and effort, be causation based; and
  - (B) to the extent the cost is immaterial or a causal based method of allocation cannot be established without undue cost and effort, be an allocator that accords with a well accepted *Cost Allocation Methodology*;
- (4) any *Cost Allocation Methodology* which is used, the reasons for using that methodology and the numeric quantity (if any) of the chosen allocator must be clearly described;
  - (5) the same cost must not be allocated more than once;
  - (6) the principles, policies and approach used to allocate costs must be consistent with the *Transmission Ring-Fencing Guidelines*;
  - (7) costs which have been allocated to *prescribed transmission services* must not be reallocated to *negotiated transmission services*; and
  - (8) costs which have been allocated to *negotiated transmission services* may be reallocated to *prescribed transmission services* to the extent they satisfy the principle referred to in subparagraph (3).

**Note.** The Cost Allocation Guidelines are required by clause 6A.19.3 to give effect to and be consistent with, the Cost Allocation Principles.

### **6A.19.3 Cost Allocation Guidelines**

- (a) The *AER* must, in accordance with the *transmission consultation procedures*, make guidelines (the *Cost Allocation Guidelines*) relating to the preparation by a *Transmission Network Service Provider* of its *Cost Allocation Methodology*.
- (b) The *Cost Allocation Guidelines*:
  - (1) must give effect to and be consistent with the *Cost Allocation Principles*; and
  - (2) may be amended by the *AER* from time to time in accordance with the *transmission consultation procedures*.
- (c) Without limiting the generality of paragraph (b), the *Cost Allocation Guidelines* may specify:
  - (1) the format of a *Cost Allocation Methodology*;
  - (2) the detailed information that is to be included in a *Cost Allocation Methodology*;
  - (3) the categories of *transmission services* which are to be separately addressed in a *Cost Allocation Methodology*, such categories being determined by reference to the nature of those services, the persons to

- whom those services are provided or such other factors as the *AER* considers appropriate; and
- (4) the allocation methodologies which are acceptable and the supporting information that is to be included in relation to such methodologies in a *Cost Allocation Methodology*.
- (d) The *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the *Cost Allocation Guidelines*.
- (e) The *AER* must, in accordance with the *transmission consultation procedures*, develop and publish the first *Cost Allocation Guidelines* by 28 September 2007 and there must be *Cost Allocation Guidelines* available at all times after that date.

#### **6A.19.4 Cost Allocation Methodology**

- (a) Each *Transmission Network Service Provider* must submit to the *AER* for its approval a document setting out its proposed *Cost Allocation Methodology*:
- (1) by no later than 28 March 2008; or
- (2) in the case of an entity that is not a *Transmission Network Service Provider* as at 28 September 2007, within 6 months of being required to do so by the *AER*.
- (b) The *Cost Allocation Methodology* proposed by a *Transmission Network Service Provider* must give effect to and be consistent with the *Cost Allocation Guidelines*.
- (c) The *AER* may approve or refuse to approve a *Cost Allocation Methodology* submitted under paragraph (a).
- (d) The *AER* must notify the relevant *Transmission Network Service Provider* of its decision to approve or refuse to approve the *Cost Allocation Methodology* submitted to it under paragraph (a) within 6 months of its submission, failing which the *AER* will be taken to have approved it.
- (e) As part of giving any approval referred to in paragraph (c), the *AER* may, after consulting with the relevant *Transmission Network Service Provider*, amend the *Cost Allocation Methodology* submitted to it, in which case the *Cost Allocation Methodology* as so amended will be taken to be approved by the *AER*.
- (f) A *Transmission Network Service Provider* may amend its *Cost Allocation Methodology* from time to time but the amendment only comes into effect:
- (1) 6 months after the submission of the amendment, together with detailed reasons for the amendment, to the *AER* (unless the *AER* approves that amendment earlier, in which case it will come into effect when that earlier approval is given); and
- (2) subject to such changes to the *Cost Allocation Methodology* (including the proposed amendment) as the *AER* notifies to the *Transmission Network Service Provider* within that period, being

changes that the *AER* reasonably considers are necessary or desirable as a result of that amendment.

- (g) A *Transmission Network Service Provider* must amend its *Cost Allocation Methodology* where the amendment is required by the *AER* to take into account any change to the *Cost Allocation Guidelines*, but the amendment only comes into effect:
  - (1) on the date that the *AER* approves that amendment, or 3 months after the submission of the amendment, whichever is the earlier; and
  - (2) subject to such changes to the *Cost Allocation Methodology* (including the proposed amendment) as the *AER* notifies to the *Transmission Network Service Provider* within that period, being changes that the *AER* reasonably considers are necessary or desirable as a result of that amendment.
- (h) A *Transmission Network Service Provider* must maintain a current copy of its *Cost Allocation Methodology* on its website.

## Part H - Transmission Consultation Procedures

### 6A.20 Transmission consultation procedures

- (a) This rule 6A.20 applies wherever the *AER* is required to comply with the *transmission consultation procedures*. For the avoidance of doubt, the *transmission consultation procedures*:
  - (1) are separate from, and do not apply to, the process for changing the *Rules* under Part 7 of the *National Electricity Law*; and
  - (2) are separate from, and (where they are required to be complied with) apply to the exclusion of, the *Rules consultation procedures* under rule 8.9.
- (b) If the *AER* is required to comply with the *transmission consultation procedures* in making, developing or amending any guidelines, models or schemes, or in reviewing any values or methodologies, it must *publish*:
  - (1) the proposed guideline, model, scheme, amendment or revised value or methodology;
  - (2) an explanatory statement that sets out the provision of the *Rules* under or for the purposes of which the guideline, model, scheme or amendment is proposed to be made or developed or the value or methodology is required to be reviewed, and the reasons for the proposed guideline, model, scheme, amendment or revised value or methodology; and
  - (3) an invitation for written submissions on the proposed guideline, model, scheme, amendment or revised value or methodology.

- (c) The invitation must allow no less than 30 *business days* for the making of submissions, and the *AER* is not required to consider any submission made pursuant to that invitation after this time period has expired.
- (d) The *AER* may publish such issues, consultation and discussion papers, and hold such conferences and information sessions, in relation to the proposed guideline, model, scheme, amendment or revised value or methodology as it considers appropriate.
- (e) Within 80 *business days* of *publishing* the documents referred to in paragraph (b), the *AER* must *publish*:
  - (1) its final decision on the guideline, model, scheme, amendment, value or methodology that sets out:
    - (i) the guideline, model, scheme, amendment or revised value or methodology (if any);
    - (ii) the provision of the *Rules* under which or for the purposes of which the guideline, model, scheme or amendment is being made or developed or the value or methodology is being reviewed; and
    - (iii) the reasons for the guideline, model, scheme, amendment value or methodology; and
  - (2) notice of the making of the final decision on the guideline, model, scheme, amendment, value or methodology.
- (f) Subject to paragraph (c), the *AER* must, in making its final decision referred to in paragraph (e)(1), consider any submissions made pursuant to the invitation for submissions referred to in paragraph (b)(3), and the reasons referred to in paragraph (e)(1)(iii) must include:
  - (1) a summary of each issue raised in those submissions that the *AER* reasonably considers to be material; and
  - (2) the *AER*'s response to each such issue.

## **Part I - Ring-Fencing Arrangements for Transmission Network Service Providers**

### **6A.21 Transmission Ring-Fencing Guidelines**

#### **6A.21.1 Compliance with Transmission Ring-Fencing Guidelines**

*All Transmission Network Service Providers including Market Network Service Providers, must comply with the Transmission Ring-Fencing Guidelines prepared in accordance with clause 6A.21.2 as from the time that any jurisdictional derogation from this rule 6A.21 ceases to apply in respect of the participating jurisdiction in which the Transmission Network Service Provider is located.*

### 6A.21.2 Development of Transmission Ring-Fencing Guidelines

- (a) *Transmission Ring-fencing guidelines* must be developed by the AER in consultation with the *Jurisdictional Regulators* and each *participating jurisdiction* for the accounting and functional separation of the provision of *prescribed transmission services* by *Transmission Network Service Providers* from the provision of other services by *Transmission Network Service Providers* (the '*Transmission Ring-Fencing Guidelines*').
- (b) The *Transmission Ring-Fencing Guidelines* may include, but are not limited to:
  - (1) provisions defining the need for and extent of:
    - (i) legal separation of the entity through which a *Transmission Network Service Provider* provides *network services* from any other entity through which it conducts business;
    - (ii) the establishment and maintenance of consolidated and separate accounts for *prescribed transmission services* and other services provided by the *Transmission Network Service Provider*;
    - (iii) allocation of costs between *prescribed transmission services* and other services provided by the *Transmission Network Service Provider*;
    - (iv) limitations on the flow of information between the *Transmission Network Service Provider* and any other person; and
    - (v) limitations on the flow of information where there is the potential for a competitive disadvantage between those parts of the *Transmission Network Service Provider's* business which provide *prescribed transmission services* and parts of the provider's business which provide any other services; and
  - (2) provisions allowing the AER to add to or to waive a *Transmission Network Service Provider's* obligations under the *Transmission Ring-Fencing Guidelines*.
- (c) In developing the *Transmission Ring-Fencing Guidelines* the AER must consider, without limitation, the following matters:
  - (1) the need, so far as practicable, for consistency with Federal and State regulation in each *participating jurisdiction* of ring-fencing requirements of other utility businesses; and
  - (2) the need, so far as practicable, for consistency between the *Transmission Ring-Fencing Guidelines* and *Distribution Ring-Fencing Guidelines*.
- (d) In developing or amending the *Transmission Ring-Fencing Guidelines*, the AER must consult with *participating jurisdictions*, *Registered Participants*, *NEMMCO* and other *interested parties*, and such consultation must be otherwise in accordance with the *transmission consultation procedures*.

## **Schedule 6A.1 - Contents of Revenue Proposals**

### **S6A.1.1 Information and matters relating to capital expenditure**

A *Revenue Proposal* must contain at least the following information and matters relating to capital expenditure:

- (1) a forecast of the required capital expenditure that complies with the requirements of clause 6A.6.7 of the *Rules* and identifies the forecast capital expenditure by reference to well accepted categories such as:
  - (i) asset class (eg. *transmission lines, substations* etc); or
  - (ii) category driver (eg. *regulatory obligation, replacement, reliability, net market benefit, business support* etc),and identifies, in respect of proposed material assets:
  - (iii) the location of the proposed asset;
  - (iv) the anticipated or known cost of the proposed asset; and
  - (v) the categories of *transmission services* which are to be provided by the proposed asset;
- (2) the methodology used for developing the capital expenditure forecast;
- (3) the forecasts of load growth relied upon to derive the capital expenditure forecasts and the methodology used for developing those forecasts of load growth;
- (4) the key assumptions that underlie the capital expenditure forecast;
- (5) a certification of the reasonableness of the key assumptions by the directors of the *Transmission Network Service Provider*;
- (6) capital expenditure for each of the first three *regulatory years* of the current *regulatory control period*, and the expected capital expenditure for each of the last two *regulatory years* of that *regulatory control period*, categorised in the same way as for the capital expenditure forecast; and
- (7) an explanation of any significant variations in the forecast capital expenditure from historical capital expenditure.

### **S6A.1.2 Information and matters relating to operating expenditure**

A *Revenue Proposal* must contain at least the following information and matters relating to operating expenditure:

- (1) a forecast of the required operating expenditure that complies with the requirements of clause 6A.6.6 of the *Rules* and identifies the forecast operating expenditure by reference to well accepted categories such as:
  - (i) particular programs; or

- (ii) types of operating expenditure (eg. maintenance, payroll, materials etc),  
and identifies in respect of each such category:
  - (iii) to what extent that forecast expenditure is on costs that are fixed and to what extent it is on costs that are variable; and
  - (iv) the categories of *transmission services* to which that forecast expenditure relates;
- (2) the methodology used for developing the operating expenditure forecast;
  - (3) the forecasts of key variables relied upon to derive the operating expenditure forecast and the methodology used for developing those forecasts of key variables;
  - (4) the methodology used for determining the cost associated with planned maintenance programs designed to improve the performance of the relevant *transmission system* for the purposes of any *service target performance incentive scheme* that is to apply to the *Transmission Network Service Provider* in respect of the relevant *regulatory control period*;
  - (5) the key assumptions that underlie the operating expenditure forecast;
  - (6) a certification of the reasonableness of the key assumptions by the directors of the *Transmission Network Service Provider*;
  - (7) operating expenditure for each of the first three *regulatory years* of the current *regulatory control period*, and the expected operating expenditure for each of the last two *regulatory years* of that *regulatory control period*, categorised in the same way as for the operating expenditure forecast; and
  - (8) an explanation of any significant variations in the forecast operating expenditure from historical operating expenditure.

### **S6A.1.3 Additional information and matters**

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

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

- (3) the values that the provider proposes are to be attributed to the *efficiency benefit sharing scheme parameters* for the purposes of the application to the provider of the *efficiency benefit sharing scheme* that applies in respect of the relevant *regulatory control period*, and an explanation of how the values proposed to be attributed to those parameters comply with any relevant requirements set out in that scheme;
- (4) the provider's calculation of:
  - (i) the estimated *total revenue cap* for it for the relevant *regulatory control period*; and
  - (ii) the *maximum allowed revenue* for it for each *regulatory year* of the relevant *regulatory control period*,  
using the *post-tax revenue model* referred to in rule 6A.5 of the *Rules*, together with:
    - (iii) details of all amounts, values and other inputs used by the provider for that purpose;
    - (iv) a demonstration that any such amounts, values and other inputs comply with the relevant requirements of Part C of Chapter 6A of the *Rules*; and
    - (v) an explanation of the calculation of the amounts referred to in subparagraphs (i) and (ii) and of the amounts, values and inputs referred to in subparagraph (iii);
- (5) the provider's calculation of the regulatory asset base for the relevant *transmission system* for each *regulatory year* of the relevant *regulatory control period* using the *roll forward model* referred to in clause 6A.6.1 of the *Rules*, together with:
  - (i) details of all amounts, values and other inputs used by the provider for that purpose;
  - (ii) a demonstration that any such amounts, values and other inputs comply with the relevant requirements of Part C of Chapter 6A of the *Rules*; and
  - (iii) an explanation of the calculation of the regulatory asset base for each *regulatory year* of the relevant *regulatory control period* and of the amounts, values and inputs referred to in subparagraph (i);
- (6) the commencement and length of the period nominated by the *Transmission Network Service Provider* for the purposes of clause 6A.6.2(c)(2) of the *Rules*;
- (7) the depreciation schedules nominated by the *Transmission Network Service Provider* for the purposes of clause 6A.6.3 of the *Rules*, which categorise the relevant assets for these purposes by reference to well accepted categories such as:



- (i) asset class (eg *transmission lines* and *substations*); or
  - (ii) category driver (eg *regulatory obligation*, replacement, *reliability*, net market benefit, and business support),  
and also by location, together with:
  - (iii) details of all amounts, values and other inputs used by the provider to compile those depreciation schedules;
  - (iv) a demonstration that those depreciation schedules conform with the requirements set out in clause 6A.6.3(b) of the *Rules*; and
  - (v) an explanation of the calculation of the amounts, values and inputs referred to in subparagraph (iii);
- (8) the X factors nominated by the provider for each *regulatory year* of the relevant *regulatory control period* for the purposes of clause 6A.6.8(a) of the *Rules*, together with a demonstration that those X factors comply with the requirements set out in clause 6A.6.8(b) of the *Rules*;
- (9) the commencement and length of the *regulatory control period* proposed by the *Transmission Network Service Provider*; and
- (10) if the *Transmission Network Service Provider* is seeking a determination by the *AER* that a *proposed contingent project* is a *contingent project* for the purposes of the relevant *revenue determination*:
- (i) a description of the *proposed contingent project*, including reasons why the provider considers the project should be accepted as a *contingent project* for the *regulatory control period*;
  - (ii) a forecast of the capital expenditure which the provider considers is reasonably required for the purpose of undertaking the *proposed contingent project*;
  - (iii) the methodology used for developing that forecast and the key assumptions that underlie it;
  - (iv) information that demonstrates that the undertaking of the *proposed contingent project* is reasonably required in order to achieve one or more of the *capital expenditure objectives*;
  - (v) information that demonstrates that the *proposed contingent capital expenditure* for the *proposed contingent project* complies with the requirements set out in clause 6A.8.1(b)(2) of the *Rules*; and
  - (vi) the *trigger events* which are proposed in relation to the *proposed contingent project* and an explanation of how each of those conditions or events addresses the matters referred to in clause 6A.8.1(c) of the *Rules*.

## **Schedule 6A.2 - Regulatory Asset Base**

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

(a) **Application of this clause**

This clause S6A.2.1:

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

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

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

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

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

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

- (2) The values in the table above are to be adjusted for the difference between:
- (i) any estimated capital expenditure that is included in those values for any part of a previous *regulatory control period*; and
  - (ii) the actual capital expenditure for that part of the previous *regulatory control period*.

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

**(d) Other transmission systems**

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

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

(e) **Former Market Network Services**

- (1) This paragraph (e) applies to a *transmission system* where any services provided by means of, or in connection with, that *transmission system* are determined to be *prescribed transmission services* under clause 2.5.2(c).
- (2) The value of the regulatory asset base for that *transmission system*, as at the beginning of the first *regulatory year* of the first *regulatory control period* for which those services are to be regulated under a *revenue determination*, is the amount that is determined by the *AER* as the lesser of:
  - (i) the prudent and efficient value of the assets that are used by the relevant *Transmission Network Service Provider* to provide those prescribed services (but only to the extent they are used to provide such services), such value being determined by the *AER* having regard to the matters referred to in clause S6A.2.2; and
  - (ii) the sum of:
    - (A) the net present value of the revenue that it is expected would be earned by the provider from the provision of those services, over the remaining life of the assets that are used by the provider to provide those services, if those services had not been determined to be *prescribed transmission services*; and
    - (B) to the extent that such market benefit is not included in the expected revenue referred to in subparagraph (A), the net present value of the market benefit to *Registered Participants* of the services being determined to be *prescribed transmission services* compared to being continued to be treated as services that are not *prescribed transmission services*,

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

For the purposes of subparagraph (ii)(B), the net present value of the market benefit is the present value of the market benefit less the present value of costs, as those terms are defined for the purposes of the *regulatory test*.

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

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

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

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

- (1) The previous value of the regulatory asset base must be increased by the amount of all capital expenditure incurred during the previous control period, including any capital expenditure determined for that period under clause 6A.8.2(e)(1)(i) in relation to *contingent projects* where the *revenue determination* has been amended by the AER in accordance with clause 6A.8.2(h) (regardless of whether such capital expenditure is above or below the forecast capital expenditure for the period that is adopted for the purposes of the *transmission determination* (if any) for that period).
- (2) The previous value of the regulatory asset base must be increased by the amount of the estimated capital expenditure approved by the AER for any part of the previous control period for which actual capital expenditure is not available, including any capital expenditure in relation to *contingent projects* where the *total revenue cap* has been amended by the AER in accordance with clause 6A.8.2(h).
- (3) The previous value of the regulatory asset base must be adjusted for the difference between:
  - (i) the estimated capital expenditure for any part of a previous *regulatory control period* where that estimated capital expenditure has been included in that value; and
  - (ii) the actual capital expenditure for that part of the previous *regulatory control period*.

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

- (4) The previous value of the regulatory asset base must only be increased by actual or estimated capital expenditure to the extent that all such capital expenditure is properly allocated to the provision of *prescribed transmission services* in accordance with the *Cost Allocation Methodology* for the relevant *Transmission Network Service Provider*.
- (5) The previous value of the regulatory asset base must be reduced by the amount of actual depreciation of the regulatory asset base during

the previous control period, calculated in accordance with the rates and methodologies allowed in the *transmission determination* (if any) for that period.

- (6) The previous value of the regulatory asset base must be reduced by the disposal value of any asset where that asset has been disposed of during the previous control period.
- (7) The previous value of the regulatory asset base must be reduced by the value of any asset where the *AER* determines that the value of that asset should be removed in accordance with clause S6A.2.3.
- (8) Without prejudice to the application of any other provision of this paragraph (f), the previous value of the regulatory asset base may be increased by the inclusion of:
  - (i) past capital expenditure that has not been included in that value because that capital expenditure was incurred in connection with the provision of services that are not *prescribed transmission services*, and in these circumstances, such capital expenditure must only be included to the extent the asset in respect of which that capital expenditure was incurred is subsequently used for the provision of *prescribed transmission services*; and
  - (ii) past capital expenditure that has not been included in that value, but only to the extent that such past capital expenditure:
    - (A) relates to an asset that is used for the provision of *prescribed transmission services*;
    - (B) is considered by the *AER* to be reasonably required in order to achieve one or more of the *capital expenditure objectives*;
    - (C) is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the relevant *Transmission Network Service Provider*; and
    - (D) has not otherwise been recovered.

### **S6A.2.2 Prudency and efficiency of capital expenditure**

In determining the prudency or efficiency of capital expenditure under clause S6A.2.1(d)(2) or S6A.2.1(e)(2), the *AER* must have regard to:

- (1) the need to provide a reasonable opportunity for the relevant *Transmission Network Service Provider* to recover the efficient costs of complying with all applicable *regulatory obligations* associated with the provision of *prescribed transmission services*;
- (2) the need to provide effective incentives to the provider to promote economic efficiency in the provision of *prescribed transmission services*;

- (3) whether the relevant project in respect of which capital expenditure was made was evaluated against, and satisfied, the *regulatory test*;
- (4) whether the provider undertook the capital expenditure in a manner consistent with good business practice and so as to practicably achieve the lowest sustainable cost of delivering the *prescribed transmission services* to be provided as a consequence of that capital expenditure;
- (5) the desirability of minimising investment uncertainty for the provider; and
- (6) the need to provide incentives to the provider to avoid undertaking inefficient capital expenditure.

In determining the prudence or efficiency of capital expenditure the *AER* must only take into account information and analysis that the provider could reasonably be expected to have considered or undertaken at the time that it undertook the relevant capital expenditure.

### **S6A.2.3 Removal of assets from regulatory asset base**

- (a) For the purposes of rolling forward the regulatory asset base for a *transmission system* as described in clause 6A.6.1 of the *Rules* and this schedule, the *AER* may only determine to remove, from the regulatory asset base for a *transmission system*, the value of an asset (or group of assets):
  - (1) to the extent that:
    - (i) the asset (or group of assets) is dedicated to one *Transmission Network User* (not being a *Distribution Network Service Provider*) or a small group of *Transmission Network Users*; and
    - (ii) the value of the asset (or group of assets), as included in the value of that regulatory asset base as at the beginning of the first *regulatory year* of the current *regulatory control period*, exceeds the *indexed amount*, as at the time of the *AER's* determination, of \$20 million;
  - (2) if the *AER* determines that the asset (or group of assets) is no longer contributing to the provision of *prescribed transmission services*; and
  - (3) if the *AER* determines that the relevant *Transmission Network Service Provider* has not adequately sought to manage the risk of that asset (or that group of assets) no longer contributing to the provision of *prescribed transmission services* by:
    - (i) seeking to negotiate the payment of a lower price by the relevant *Transmission Network Users* for those *prescribed transmission services* in accordance with the *Rules*; or
    - (ii) in the case of assets committed to be constructed on or after 16 February 2006, seeking to enter into arrangements which provide for a reasonable allocation of the risks of the value of

that asset (or that group of assets) no longer contributing to the provision of *prescribed transmission services*.

For the purposes of subparagraph (ii), an asset is, and is only, to be taken to be committed to be constructed if it satisfies the criteria which a project needs to satisfy to be a "committed project" for the purposes of the *regulatory test*.

- (b) The *AER* may determine a separate amount which is to be included in the *annual building block revenue requirement* for a *Transmission Network Service Provider* for each *regulatory year* of a *regulatory control period* so as to compensate the provider for the risk of the value of assets being removed from the regulatory asset base for the relevant *transmission system*, but only if it is satisfied that:
  - (1) the risk is not otherwise addressed through another provision of the *Rules*;
  - (2) the provider has taken all the steps that a prudent *Transmission Network Service Provider* would take to manage the risk; and
  - (3) the *total revenue cap* for the provider for that *regulatory control period* does not adequately reflect risks that cannot be reasonably managed.

#### **S6A.2.4 Roll forward of regulatory asset base within the same regulatory control period**

(a) **Application of this clause**

This clause S6A.2.4 applies to the establishment of the value of the regulatory asset base for a *transmission system* as at the beginning of one *regulatory year* in a *regulatory control period* on the roll forward of the regulatory asset base to that *regulatory year* from the immediately preceding *regulatory year* (if any) in that *regulatory control period*.

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

The *roll forward model* referred to in clause 6A.6.1 of the *Rules* must provide for that value to be established in accordance with the requirements of this clause S6A.2.4.

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

The value of the regulatory asset base for a *transmission system* as at the beginning of the second or a subsequent year ('the **later year**') in a *regulatory control period* must be calculated by adjusting the value ('the **previous value**') of the regulatory asset base for that *transmission system* as at the beginning of the immediately preceding *regulatory year* ('the **previous year**') in that *regulatory control period* as follows:

- (1) The previous value of the regulatory asset base must be increased by the amount of forecast capital expenditure accepted or substituted by the *AER* for the previous year in accordance with clause 6A.6.7(c) or clauses 6A.13.2(b)(4) and (5) (as the case may be).



- (2) The previous value of the regulatory asset base must be reduced by the amount of depreciation included in the *annual building block revenue requirement* for the previous year.
  - (3) The previous value of the regulatory asset base must be reduced by the disposal value of any asset included in that value where the asset is forecast to be disposed of during the previous year.
  - (4) The previous value of the regulatory asset base must be increased by an amount necessary to maintain the real value of the regulatory asset base as at the beginning of the later year by adjusting that value for inflation.
- (d) **Allowance for working capital**

If the *AER* determines that it is appropriate to do so, it may include an allowance for working capital in the regulatory asset base for a *transmission system* which is rolled forward in accordance with this clause S6A.2.4.

## **Schedule 6A.3 Commercial arbitration of disputes for negotiated transmission services**

### **S6A.3.1 Commercial arbitration for negotiated transmission services**

This schedule applies to any dispute which may arise between a *Transmission Network Service Provider* (a provider) and a *Service Applicant* (an applicant) as to the price which the provider proposes to charge the applicant for a *negotiated transmission service* or as to the amount of any *access charge*.

### **S6A.3.2 Notification of dispute**

- (a) A provider or an applicant may notify the *AER* in writing that a dispute exists.
- (b) On receiving a notification under paragraph (a), the *AER* must give notice in writing of the dispute to the other party to the dispute.
- (c) A provider or an applicant who has given notice of a dispute under paragraph (b) may withdraw notification of the dispute at any time by written notice to the *AER* and the other party to the dispute.
- (d) If the notification of a dispute is withdrawn under paragraph (c), it is taken for the purposes of this clause S6A.3.2 to never have been given.

### **S6A.3.3 Appointment of commercial arbitrator**

- (a) On receiving a notification under clause S6A.3.2(a), the *AER* must request the provider and the applicant, by a time specified by the *AER*, to nominate to the *AER* two persons each for appointment as the *commercial arbitrator* to determine the dispute. The provider and applicant may make the nominations.

- (b) As soon as practicable after the expiry of the time specified by the *AER* under paragraph (a), the *AER* must appoint:
- (1) one of the persons (if any) nominated to the *AER* by the provider or the applicant under paragraph (a); or
  - (2) if neither the provider or the applicant nominate any such person within the time specified by the *AER* under paragraph (a) or all of the persons so nominated do not qualify for appointment under paragraph (c) or are not eligible for appointment under paragraph (d), a person determined by the *AER*,  
  
as the *commercial arbitrator* to determine the dispute, and must refer the dispute to that *commercial arbitrator*. A decision of the *AER* as to the appointment of the *commercial arbitrator* is final and binding on the provider and the applicant.
- (c) The *AER* may only appoint a person as the *commercial arbitrator* if that person is experienced or trained in dispute resolution techniques.
- (d) A person is not eligible for appointment as the *commercial arbitrator* if that person has any interest that may conflict with, or which may be seen to conflict with, the impartial resolution of the dispute. Where the person who is appointed as the *commercial arbitrator* becomes aware of such conflict after that person commences the hearing of the dispute, the person must advise the parties to that effect.
- (e) Where:
- (1) the provider or the applicant believes that the person appointed as the *commercial arbitrator* has an interest which may conflict with the impartial resolution of the dispute; or
  - (2) the person appointed as the *commercial arbitrator* discloses the existence of such an interest,  
  
the person must not continue to hear and determine the dispute, except with the written consent of the provider and the applicant.

#### **S6A.3.4 Procedures of commercial arbitrator**

- (a) The *commercial arbitrator* may give to the parties such directions as it considers necessary:
- (1) for the proper conduct of the proceedings, including in relation to the provision of documents and information to the other party and the making of oral and written submissions;
  - (2) relating to the use and disclosure of information obtained from the other party to the dispute (including a direction to keep information confidential); and
  - (3) in relation to the participation (if any) of legal representatives of the parties in the proceedings.

- (b) The *commercial arbitrator* must observe the rules of procedural fairness, but is not bound by the rules of evidence and may inform itself in any manner it thinks fit.

### **S6A.3.5 Determination of dispute**

- (a) In determining the dispute, the *commercial arbitrator* must apply the *Negotiated Transmission Service Pricing Criteria* that are applicable to that dispute in accordance with the relevant *transmission determination*, but this does not limit the other matters to which the *commercial arbitrator* may have regard.
- (b) Subject to paragraph (d), the *commercial arbitrator* must determine the dispute as quickly as possible, and in any case it must do so within 30 *business days* after the dispute is referred to the *commercial arbitrator*. The determination of the *commercial arbitrator*:
  - (1) must specify:
    - (i) the price at which the *negotiated transmission service* is to be provided or the amount of the *access charge* (as the case may be); and
    - (ii) the terms and conditions that the *commercial arbitrator* has assumed, for the purposes of determining the dispute, as being the terms and conditions on which the *negotiated transmission service* will be provided or the *access charge* that will be payable (as the case may be), to the extent that such terms and conditions have not been agreed for the purposes of the dispute between the provider and the applicant; and
  - (2) may specify the price or charge as referred to in subparagraph (1)(i) in such a way that it is or is to be adjusted over time.

**Note:** An adjustment as referred to in paragraph (b)(2) may, for example, be appropriate where the cost of providing the negotiated transmission service to a Service Applicant changes because the assets used to provide that service are subsequently used to provide a service to another person and the payment for the service by that other person enables the Transmission Network Service Provider to recoup some of those costs from that other person.

- (c) The *commercial arbitrator* does not have the power to require the provider to provide any service to the applicant.
- (d) The *commercial arbitrator* may extend the period referred to in paragraph (b) if the provider and the applicant so agree in writing.
- (e) The *commercial arbitrator* may at any time terminate the proceedings without making a decision if it considers that:
  - (1) the dispute is misconceived or lacking in substance;
  - (2) the notification of the dispute to the *AER* under S6A.3.2(a) was vexatious; or

- (3) the party who notified the dispute to the *AER* under S6A.3.2(a) has not negotiated in good faith or has notified the dispute prematurely or unreasonably.
- (f) The *commercial arbitrator* must terminate the proceedings without making a decision if at any time, whether on application by the provider or the applicant or otherwise, the arbitrator determines that the *negotiated transmission service* is capable of being provided on a genuinely competitive basis by a person other than the *Transmission Network Service Provider* or an entity which is associated with the provider.

### **S6A.3.6 Costs of dispute**

- (a) The fees and costs of the *commercial arbitrator* must be borne equally by the provider and the applicant unless:
  - (1) paragraph (b) applies; or
  - (2) otherwise agreed between the provider and the applicant.
- (b) The costs of determining the dispute (including the legal costs of either of the parties) may be allocated by the *commercial arbitrator* for payment as between the parties as part of any determination. In deciding to allocate costs against one of the parties to the dispute, the *commercial arbitrator* may have regard to any relevant matters including (but not limited to) whether the conduct of that party unreasonably prolonged or escalated the dispute or otherwise increased the costs of resolving the dispute.

### **S6A.3.7 Enforcement of agreement or determination and requirement for reasons**

- (a) Where the provider and the applicant reach agreement (whether or not the matter is before a *commercial arbitrator*), the parties may execute a written agreement recording their resolution of that dispute.
- (b) The *commercial arbitrator* must give its decision determining the dispute, together with its reasons for that decision, in writing and must provide a copy of its determination:
  - (1) to the provider and to the applicant;
  - (2) (except to the extent that it contains confidential information) to the *AER* for publication.
- (c) An agreement that is executed under paragraph (a) and a determination of the *commercial arbitrator* are binding on the provider and the applicant, and any failure to comply with such an agreement or determination is a breach of the *Rules* in respect of which the *AER* may take action in accordance with the *National Electricity Law*.

### **S6A.3.8 Miscellaneous**

- (a) To the extent permitted by law, a person who is appointed as a *commercial arbitrator* is not liable for any loss, damage or liability suffered or incurred

by any person as a consequence of any act or omission of that person which was done in good faith in connection with the dispute.

- (b) A person who is appointed as a *commercial arbitrator* may, before acting in relation to the dispute, require the parties to the dispute (or any one of them) to execute a release and indemnity in relation to any loss, damage or liability that that person would, but for the release or indemnity, suffer or incur as a consequence of any act or omission done in good faith in connection with the dispute.
-

**Schedule 2                      Amendments to the National Electricity Rules  
(other than to Chapters 6 and 10)  
consequential on the making of the new  
Chapter 6A of the National Electricity Rules**

(Clause 5)

**[1]    Rule 1.3                      Nomenclature**

After rule 1.2, insert:

**1.3                      Nomenclature of and references to provisions of a Chapter**

**1.3.1                      Introduction**

- (a) This rule applies to provisions inserted after 16 November 2006, and applies unless the context otherwise requires.
- (b) In this rule, “numbered” means identified by one or more numbers or one or more letters, or by a combination of one or more numbers and one or more letters.

**1.3.2                      Parts, Divisions and Subdivisions**

- (a) Chapters may contain numbered Parts.
- (b) Parts may contain numbered Divisions.
- (c) Divisions may contain numbered Subdivisions.
- (d) The following table indicates how Parts, Divisions and Subdivisions may be referred to in the *Rules*.

<b>Level</b>	<b>Provision</b>	<b>Internal reference in same level</b>	<b>External reference in preceding level</b>
1	Chapter 1		
2	Part A	this Part	Part A
3	Division 1	this Division	Division 1
4	Subdivision 1	this Subdivision	Subdivision 1

**Note:**                      The numbering of the provisions in the table is by way of example.

**1.3.3 Rules, clauses, paragraphs, subparagraphs and other items**

- (a) Chapters, Parts, Divisions and Subdivisions of the *Rules* may contain numbered rules.
- (b) Rules may contain numbered clauses.
- (c) Rules and clauses may contain numbered paragraphs.
- (d) Paragraphs may contain numbered subparagraphs.
- (e) Subparagraphs may contain numbered items.
- (f) The following table indicates how rules, clauses, paragraphs, subparagraphs and other numbered items may be referred to in the *Rules*.

<b>Level</b>	<b>Provision</b>	<b>Internal reference in same level</b>	<b>External reference in preceding level</b>
1	Chapter, Part or Subdivision		
2	rule 1.2	this rule	rule 1.2
3	clause 1.2.3	this clause	clause 1.2.3
4	rule 1.2(a) clause 1.2.3(a)	this paragraph this paragraph	paragraph (a) paragraph (a)
5	rule 1.2(a)(1) clause 1.2.3(a)(1)	this subparagraph this subparagraph	subparagraph (1) subparagraph (1)
6	rule 1.2(a)(1)(i) clause 1.2.3(a)(1)(i)	this rule 1.2(a)(1)(i) this clause 1.2.3(a)(1)(i)	rule 1.2(a)(1)(i) clause 1.2.3(a)(1)(i)
7	rule 1.2(a)(1)(i)(A) clause 1.2.3(a)(1)(i)(A)	this rule 1.2(a)(1)(i)(A) this clause 1.2.3(a)(1)(i)(A)	rule 1.2(a)(1)(i)(A) clause 1.2.3(a)(1)(i)(A)

**Note.** The numbering of the provisions in the table is by way of example.

**[2] Rule 1.4 Effect of renumbering**

After rule 1.3, insert:

#### **1.4 Effect of renumbering of provisions of the Rules**

- (a) The renumbering of a provision of the *Rules* by an *Amending Rule* does not affect anything done or omitted under the provision before the *Amending Rule* comes into operation.
- (b) A reference (however expressed) in the *Rules* or in any other document to that provision is taken to be a reference to the provision as renumbered.
- (c) Paragraphs (a) and (b) have effect whether or not the renumbered provision is also relocated.

#### **[3] Clause 2.5.2 Market Network Service**

In clause 2.5.2(a)(1) omit “*prescribed transmission service or*” and substitute “*transmission service which is subject to a revenue determination or any*”.

#### **[4] Clause 2.5.2**

In clause 2.5.2(a)(3)(A), omit “*a prescribed transmission service or*” and substitute “*a transmission service to which a transmission determination has applied*”.

#### **[5] Clause 2.5.2**

In clause 2.5.2(b), after “Chapter 6” insert “or Chapter 6A, as the case may be”.

#### **[6] Clause 2.5.2**

Omit clause 2.5.2(c) and substitute:

- (c) If an existing *network service* ceases to be classified as a *market network service* it may at the discretion of the *AER* or *Jurisdictional Regulator* (whichever is relevant) be determined to be a *prescribed transmission service* or *prescribed distribution service* in which case the relevant *total revenue cap*, *revenue cap* or *price cap* may be adjusted in accordance with Chapter 6 or Chapter 6A (as the case may be) to include to an appropriate extent the relevant *network elements* which provided those *network services*.



## **[7] Clause 5.2.2 Connection agreements**

In clause 5.2.2(a), omit, where first occurring “*Network Use*” and substitute “*Transmission Network User, Distribution Network Use*” and omit, where second occurring “*Network User*” and substitute “*Transmission Network User or Distribution Network User (as the case may be)*”.

## **[8] Clause 5.3.6 Offer to connect**

Omit paragraphs (h)-(k) of clause 5.3.6 and substitute:

- (h) An offer to *connect* must define the basis for determining *transmission service* charges in accordance with Chapter 6A, including the prudential requirements set out in that Chapter.
- (i) An offer to *connect* must define the basis for determining *distribution service* charges in accordance with Chapter 6, including the prudential requirements set out in rule 6.7 of Chapter 6.
- (j) An offer to *connect* in respect of a *transmission network* must conform with the access arrangements set out in rule 5.4A.
- (k) An offer to *connect* in respect of a *distribution network* made to an *Embedded Generator* or a *Market Network Service Provider*, must conform with the relevant access arrangements set out in rule 5.5.
- (l) Nothing in the *Rules* is to be read or construed as imposing an obligation on a *Network Service Provider* to effect an extension of a *network* unless that extension is required to effect or facilitate the *connection* of a *Connection Applicant* and the *connection* is the subject of a *connection agreement*.

## **[9] Rule 5.4A Access arrangements relating to Transmission Networks**

After clause 5.4.4 insert:

### **5.4A Access arrangements relating to Transmission Networks**

- (a) The *Transmission Network Service Provider* referred to in this rule 5.4A is the *Transmission Network Service Provider* required under clause 5.3.3 to process and respond to a *connection* enquiry or required under clause 5.3.5 to prepare an offer to *connect* for the establishment or modification of a *connection* to the *transmission network* owned, controlled or operated by that *Transmission Network Service Provider* or for the provision of *network service*.

- (b) If requested by a *Connection Applicant*, whether as part of a *connection* enquiry, application to *connect* or the subsequent negotiation of a *connection* agreement, the *Transmission Network Service Provider* must negotiate in good faith with the *Connection Applicant* to reach agreement in respect of the *transmission network user access* arrangements sought by the *Connection Applicant*.
- (c) As a basis for negotiations under paragraph (b):
  - (1) the *Connection Applicant* must provide to the *Transmission Network Service Provider* such information as is reasonably requested relating to the expected operation of:
    - (i) its *generating units* (in the case of a *Generator*);
    - (ii) its *network elements* used in the provision of *network service* (in the case of a *Network Service Provider*); or
    - (iii) its *plant* (in the case of any other kind of *Connection Applicant*); and
  - (2) the *Transmission Network Service Provider* must provide to the *Connection Applicant* such information as is reasonably requested to allow the *Connection Applicant* to fully assess the commercial significance of the *transmission network user access* arrangements sought by the *Connection Applicant* and offered by the *Transmission Network Service Provider*.
- (d) A *Connection Applicant* may seek *transmission network user access* arrangements at any level of *power transfer capability* between zero and:
  - (1) in the case of a *Generator*, the *maximum power input* of the relevant *generating units* or group of *generating units*;
  - (2) in the case of a *Network Service Provider*, the *power transfer capability* of the relevant *network elements*; and
  - (3) in the case of any other kind of *Connection Applicant*, the *maximum demand* at the *connection point* for the relevant *plant*.
- (e) The *Transmission Network Service Provider* must use reasonable endeavours to provide the *transmission network user access* arrangements being sought by the *Connection Applicant* subject to those arrangements being consistent with *good electricity industry practice* considering:
  - (1) the *connection assets* to be provided by the *Transmission Network Service Provider* or otherwise at the *connection point*; and
  - (2) the potential *augmentations* or *extensions* required to be undertaken on all affected *transmission networks* or *distribution networks* to provide that level of *power transfer capability* over the period of the *connection agreement* taking into account the amount of *power transfer capability* provided to other *Registered Participants* under *transmission network user access* or *distribution network user access* arrangements in respect of all affected *transmission networks* and *distribution networks*.

- (f) The *Transmission Network Service Provider* and the *Connection Applicant* must negotiate in good faith to reach agreement as appropriate on:
- (1) the *connection service charge* to be paid by the *Connection Applicant* in relation to *connection assets* to be provided by the *Transmission Network Service Provider*;
  - (2) in the case of a *Market Network Service Provider*, the service level standards to which the *Market Network Service Provider* requires the *Transmission Network Service Provider* to adhere in providing its services;
  - (3) the *use of system services charge* to be paid:
    - (i) by the *Connection Applicant* in relation to any *augmentations* or *extensions* required to be undertaken on all affected *transmission networks* and *distribution networks*; and
    - (ii) where the *Connection Applicant* is a *Market Network Service Provider*, to the *Market Network Service Provider* in respect of any reduction in the long run marginal cost of *augmenting* the *transmission network* as a result of it being *connected* to the *transmission network*;  
(‘*negotiated use of system charges*’); and
  - (4) the amounts (‘*access charges*’) referred to in paragraphs (g)-(j).
- (g) The amount to be paid by the *Connection Applicant* to the *Transmission Network Service Provider* in relation to the costs reasonably incurred by the provider in providing *transmission network user access*.
- (h) Where the *Connection Applicant* is a *Generator*:
- (1) the compensation to be provided by the *Transmission Network Service Provider* to the *Generator* in the event that the *generating units* or group of *generating units* of the *Generator* are *constrained off* or *constrained on* during a *trading interval*; and
  - (2) the compensation to be provided by the *Generator* to the *Transmission Network Service Provider* in the event that *dispatch* of the *Generator’s generating units* or group of *generating units* causes another *Generator’s generating units* or group of *generating units* to be *constrained off* or *constrained on* during a *trading interval*.
- (i) Where the *Connection Applicant* is a *Market Network Service Provider*:
- (1) the compensation to be provided by the *Transmission Network Service Provider* to the *Market Network Service Provider* in the event that the *transmission network user access* is not provided; and
  - (2) the compensation to be provided by the *Market Network Service Provider* to the *Transmission Network Service Provider* in the event that *dispatch* of the relevant *market network service* causes a *Generator’s generating units* or group of *generating units* to be

*constrained off or constrained on during a trading interval or causes the dispatch of another market network service to be constrained.*

- (j) In the case of any other kind of *Connection Applicant*, the compensation to be provided by the *Transmission Network Service Provider* to the *Connection Applicant* in the event that the *transmission network user access* is not provided.

## **[10] Rule 5.5                      Access arrangements for Generators**

Omit rule 5.5 and substitute:

### **5.5                      Access arrangements relating to Distribution Networks**

- (a) In this rule 5.5:
- (1) the *Distribution Network Service Provider* is the *Distribution Network Service Provider* required under clause 5.3.3 to process and respond to a *connection* enquiry or required under clause 5.3.5 to prepare an offer to *connect* for the establishment or modification of a *connection* to the *distribution network* owned, controlled or operated by that *Distribution Network Service Provider* or for the provision of *network service*; and
  - (2) the references to a *Connection Applicant* are to an *Embedded Generator* or *Market Network Service Provider* who makes a *connection* enquiry under clause 5.3.2 or an application to *connect* under clause 5.3.4 in relation to any *generating units* or group of *generating units*, or any *network elements* used in the provision of *network service*, as the case may be.
- (b) If requested by a *Connection Applicant*, whether as part of a *connection* enquiry, application to *connect* or the subsequent negotiation of a *connection agreement*, the *Distribution Network Service Provider* must negotiate in good faith with the *Connection Applicant* to reach agreement in respect of the *distribution network user access* arrangements sought by the *Connection Applicant*.
- (c) As a basis for negotiations under paragraph (b):
- (1) the *Connection Applicant* must provide to the *Distribution Network Service Provider* such information as is reasonably requested relating to the expected operation of:
    - (i) its *generating units* (in the case of an *Embedded Generator*); or
    - (ii) its *network elements* used in the provision of *network service* (in the case of a *Market Network Service Provider*); and
  - (2) the *Distribution Network Service Provider* must provide to the *Connection Applicant* such information as is reasonably requested to

allow the *Connection Applicant* to fully assess the commercial significance of the *distribution network user access* arrangements sought by the *Connection Applicant* and offered by the *Distribution Network Service Provider*.

- (d) A *Connection Applicant* may seek *distribution network user access* arrangements at any level of *power transfer capability* between zero and:
- (1) in the case of an *Embedded Generator*, the *maximum power input* of the relevant *generating units* or group of *generating units*; and
  - (2) in the case of a *Market Network Service Provider*, the *power transfer capability* of the relevant *network elements*.
- (e) The *Distribution Network Service Provider* must use reasonable endeavours to provide the *distribution network user access* arrangements being sought by the *Connection Applicant* subject to those arrangements being consistent with *good electricity industry practice* considering:
- (1) the *connection assets* to be provided by the *Distribution Network Service Provider* or otherwise at the *connection point*; and
  - (2) the potential *augmentations* or *extensions* required to be undertaken on all affected *transmission networks* or *distribution networks* to provide that level of *power transfer capability* over the period of the *connection agreement* taking into account the amount of *power transfer capability* provided to other *Registered Participants* under *transmission network user access* or *distribution network user access* arrangements in respect of all affected *transmission networks* and *distribution networks*.
- (f) The *Distribution Network Service Provider* and the *Connection Applicant* must negotiate in good faith to reach agreement as appropriate on:
- (1) the *connection service charge* to be paid by the *Connection Applicant* in relation to *connection assets* to be provided by the *Distribution Network Service Provider*;
  - (2) in the case of a *Market Network Service Provider*, the service level standards to which the *Market Network Service Provider* requires the *Distribution Network Service Provider* to adhere in providing its services;
  - (3) the *use of system services* charge to be paid:
    - (i) by the *Connection Applicant* in relation to any *augmentations* or *extensions* required to be undertaken on all affected *transmission networks* and *distribution networks*; and
    - (ii) where the *Connection Applicant* is a *Market Network Service Provider*, to the *Market Network Service Provider* in respect of any reduction in the long run marginal cost of *augmenting* the *distribution network* as a result of it being *connected* to the *distribution network*,
- (‘*negotiated use of system charges*’); and

- (4) the following amounts:
- (i) the amount to be paid by the *Connection Applicant* to the *Distribution Network Service Provider* in relation to the costs reasonably incurred by the *Distribution Network Service Provider* in providing *distribution network user access*;
  - (ii) where the *Connection Applicant* is an *Embedded Generator*:
    - (A) the compensation to be provided by the *Distribution Network Service Provider* to the *Embedded Generator* in the event that the *generating units* or group of *generating units* of the *Embedded Generator* are *constrained off* or *constrained on* during a *trading interval*; and
    - (B) the compensation to be provided by the *Embedded Generator* to the *Distribution Network Service Provider* in the event that dispatch of the *Embedded Generator's generating units* or group of *generating units* causes another *Generator's generating units* or group of *generating units* to be *constrained off* or *constrained on* during a *trading interval*; and
  - (iii) where the *Connection Applicant* is a *Market Network Service Provider*:
    - (A) the compensation to be provided by the *Distribution Network Service Provider* to the *Market Network Service Provider* in the event that the *distribution network user access* is not provided; and
    - (B) the compensation to be provided by the *Market Network Service Provider* to the *Distribution Network Service Provider* in the event that *dispatch* of the relevant *market network service* causes a *Generator's generating units* or group of *generating units* to be *constrained off* or *constrained on* during a *trading interval* or causes the *dispatch* of another *market network service* to be *constrained*.
- (g) The maximum charge that can be applied by the *Distribution Network Service Provider* in respect of negotiated *use of system* charges for the *distribution network* is a charge that is determined:
- (1) in accordance with schedule 6.2 where the *Connection Applicant* is an *Embedded Generator*; and
  - (2) where the *Connection Applicant* is a *Market Network Service Provider*, in accordance with the methods specified for *Generators* in schedule 6.2, except that references to "*Generators*" in that Schedule are to be read as references to *Market Network Service Providers*, together with any other necessary changes.
- (h) A *Distribution Network Service Provider* must pass through to a *Connection Applicant* the amount calculated in accordance with paragraph (i) for

*Customer TUOS usage charges* that would have been payable by the *Distribution Network Service Provider* to a *Transmission Network Service Provider* had the *Connection Applicant* not been connected to its *distribution network* ('avoided *Customer TUOS usage charges*').

- (i) To calculate the amount to be passed through to a *Connection Applicant* in accordance with paragraph (h), a *Distribution Network Service Provider* must, if *Customer TUOS usage prices* were in force at the relevant *transmission network connection point* throughout the relevant *financial year*:
  - (1) determine the *Customer TUOS usage charges* that would have been payable by the *Distribution Network Service Provider* for the relevant *financial year*:
    - (i) where the *Connection Applicant* is an *Embedded Generator*, if that *Embedded Generator* had not injected any *energy* at its *connection point* during that *financial year*;
    - (ii) where the *Connection Applicant* is a *Market Network Service Provider*, if the *Market Network Service Provider* had not been connected to the *Distribution Network Service Provider's* *distribution network* during that *financial year*; and
  - (2) determine the amount by which the charges calculated in subparagraph (1) exceed the *Customer TUOS usage charges* actually payable by the *Distribution Network Service Provider*, which amount will be the relevant amount for the purposes of paragraph (h).
- (j) Where *Customer TUOS usage prices* were not in force at the relevant *distribution network connection point* throughout the relevant *financial year*, as referred to in paragraph (i), the *Distribution Network Service Provider* must apply an equivalent procedure to that referred to in paragraph (i) in relation to that component of its *transmission use of system service charges* which is deemed by the relevant *Transmission Network Service Provider* to represent the marginal cost of *transmission*, less an allowance for locational signals present in the *spot market*, to determine the relevant amount for the purposes of paragraph (h).
- (k) Any payments to *Connection Applicants* under paragraphs (f)(3)(ii) or (h) are to be included as part of the *aggregate annual revenue requirement* of the relevant *Distribution Network Service Provider* and are to be recovered in the same manner as payments to *Embedded Generators* under clauses 6.5.3(c) and (d).

## **[11] Rule 5.5A Access arrangements for Market Network Service Providers**

Omit the rule 5.5A (including the heading).

**[12] Clause 5.6.2 Network Development**

In clause 5.6.2(m)(2), after “Chapter 6” insert “or Chapter 6A, as the case may be”.

**[13] Clause 5.6.5A Regulatory Test**

In clause 5.6.5A(b) omit “basis of asset valuation determined by the *AER* for the purposes of clause 6.2.3” and insert “method of establishing the value of the regulatory asset base for *transmission systems* as set out in Part C of Chapter 6A”.

**[14] Clause 5.6.6A Construction of new small transmission network assets**

In clause 5.6.6A(b)(2), omit “*Transmission Network Service Provider’s revenue cap*” and substitute “*total revenue cap* for the *Transmission Network Service Provider*”.

**[15] Clause 5.6.6A**

In clause 5.6.6A(e)(2), omit “*Transmission Network Service Provider’s revenue cap*” and substitute “*total revenue cap* for the *Transmission Network Service Provider*”.

**[16] Clause 7.14.3 Additional matters**

In clause 7.14.3(a)(5), omit “6.16.1(e)” and substitute “6.8.1(e)”.

**[17] Clause 8.2.1 Application and guiding principles**

At the end of clause 8.2.1(h)(12) omit “or” and at the end of clause 8.2.1(h)(13) insert:

; or

(14) a dispute to which clause 6A.9.8 and Schedule 6A.3 applies.



## **[18] Part 1 of Chapter 8A Participant derogations**

Omit clause 8A.1.3(a)(1) and substitute:

- (1) determine:
  - (i) the total capital expenditure which the *AER* considers is reasonably required for the purpose of undertaking the contingent project;
  - (ii) the forecast capital and incremental operating expenditure for that contingent project for each remaining regulatory year of the current regulatory control period, which the *AER* considers is reasonably required for the purpose of undertaking the contingent project in accordance with Appendix F of the Determination;
  - (iii) the likely commencement and completion dates for the contingent project;
  - (iv) the incremental revenue which is likely to be earned by TransGrid in each remaining regulatory year of the current regulatory control period as a result of the contingent project being undertaken; and
  - (v) the maximum allowed revenue for each regulatory year in the remainder of the current regulatory control period by adding the incremental revenue for that regulatory year; and

## **[19] Part 1 of Chapter 8A**

Omit clause 8A.1.3(b)(2) and substitute:

- (2) to adjust the forecast operating expenditure for the current regulatory control period to accommodate the amount of additional operating expenditure determined under paragraph (a)(1)(ii); and
- (3) to reflect the effect of any resultant increase in forecast capital expenditure and incremental operating expenditure on the maximum allowed revenue for each regulatory year in the remainder of the current regulatory control period.

**[20] Part A of Chapter 9 Jurisdictional Derogations for Victoria - Clause 9.3.1**

In clause 9.3.1, omit the definition in Column 2 of the table of “Information requirements guidelines”, and substitute:

The *submission guidelines* referred to in clause 6A.10.2.

**[21] Clause 9.8.1 Clause 6.2 – Introductory Words**

Omit the clause (including the heading) and insert:

[Deleted]

**[22] Clause 9.8.3 Interim Arrangements (Clause 6.2.1)**

Omit the clause (including the heading) and insert:

[Deleted]

**[23] Clause 9.8.4 Transmission Network Pricing**

In the opening words of clause 9.8.4(a) omit “Chapter 6” and substitute “Chapter 6A”.

**[24] Clause 9.8.4**

In clause 9.8.4(a)(2) omit “Parts B and C of Chapter 6” and substitute “Parts A – H of Chapter 6A”.

**[25] Heading to clause 9.8.4A**

Omit the heading to clause 9.8.4A and substitute:

**9.8.4A Modification of Chapter 6A in its application to Victoria**

**[26] Clause 9.8.4A**

In clause 9.8.4A, omit “Chapter 6” and substitute “Chapter 6A”.

**[27] Clause 9.8.4B Transmission service revenues**

In clause 9.8.4B(a) omit “Chapter 6” and substitute “Chapter 6A”.

**[28] Clause 9.8.4B**

In clause 9.8.4B(a)(1) and (2) omit “Part B of Chapter 6” and substitute “Chapter 6A” and omit “Part B of that Chapter” and substitute “Chapter 6A”.

**[29] Clause 9.8.4B**

Clause 9.8.4B(a)(2)(ii) omit “a *revenue cap*” and substitute “the *maximum allowed revenue* for a *Transmission Network Service Provider* for a *regulatory year* of a *regulatory control period*”.

**[30] Clause 9.8.4C Transmission revenue regulatory regime for transmission services provided by VENCORP**

In clause 9.8.4C(a), omit the words “, and clauses 6.2.2 and 6.2.3 do not apply in respect of *transmission services* provided by *VENCORP*”.

**[31] Clause 9.8.4C (a1)**

Omit the paragraph and substitute:

- (a1) For the avoidance of doubt, *transmission services* offered by *VenCorp* are not taken to be offered on a contestable basis by reason only of *VENCORP* having procured those services through a competitive tender or similar process.

- (a2) The procedure set out paragraphs (b)-(g4) applies in relation to *transmission services* provided by *VenCorp* and Part E of Chapter 6A is modified in so far as it applies to the regulation of revenues.

**[32] Clause 9.8.4C**

Omit clause 9.8.4C(e)(2) and substitute:

- (2) must comply with the requirements set out in clause 6A.14.2, modified as necessary to apply to the revenue regulatory regime under this clause 9.8.4C.

**[33] Clause 9.8.4D Information disclosure by VENCORP**

Omit clause 9.8.4D and substitute:

*VENCORP* must comply with Part F of Chapter 6A, but only to the extent to which it is relevant and applicable to *VENCORP*.

**[34] Clause 9.8.4F Pricing for connection to and use of Victorian transmission network**

In clause 9.8.4F(c)(3)(ii)(C) omit the words “a *revenue cap*” and substitute “the *maximum allowed revenue* for a *Transmission Network Service Provider* for a *regulatory year* of a *regulatory control period*”.

**[35] Clause 9.28.3 System Planning**

Omit clause 9.28.3(c).

**[36] Clause 9.32.1 Definitions**

In clause 9.32.1(b), omit “clause 6.2.1(d)” in Column 2 of the definition of transmission network and substitute “clause 6A.1.5(b)”.

**[37] Clause 9.38.2 Regulatory control period (clause 6.2.4(b))**

Omit the clause including the heading and insert:

**[Deleted]**

**[38] Clause 9.48.2 Transmission Service Pricing**

Omit clause 9.48.2(f) and insert:

**[Deleted]**

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## Schedule 3                      Amendment of Chapter 10 of the National Electricity Rules

(Clause 6)

### [1] Chapter 10 Glossary

In Chapter 10, delete the following definitions:

#### **excluded transmission services**

*Transmission services* the cost of and revenue for which are excluded from the *revenue cap* which applies to *prescribed transmission services*.

#### **generator access**

The *power transfer capability* of the *transmission network* and/or *distribution network* in respect of the *Generator's generating units* or group of *generating units* at a *connection point* which has been negotiated between the *Generator* and the relevant *Network Service Provider* in accordance with clause 5.5.

#### **market network service provider access**

The *power transfer capability* of the *transmission network* and/or *distribution network* in respect of the *Market Network Service Provider's market network services* at a *connection point* which has been negotiated between the *Market Network Service Provider* and the relevant *Network Service Provider* in accordance with clause 5.5A.

## [2] Chapter 10 Glossary

In Chapter 10, insert in alphabetical order, the following new definitions:

### **above-standard system shared transmission service**

A *shared transmission service* that exceeds the requirements referred to in paragraph (a)(1) or (2) of the definition of *negotiated transmission service* principally as a consequence of investments that have *system-wide benefits*.

### **access charge**

An amount described in rule 5.4A(f)(4) and rule 5.4A(g)-(j).

### **Amending Rule**

A Rule made by the *AEMC* under section 103 of the *National Electricity Law* on and from the date of commencement of the operation of that Rule, or parts of that Rule.

### **annual building block revenue requirement**

The amount representing the revenue requirement of a *Transmission Network Service Provider* for each *regulatory year* of a *regulatory control period* calculated in accordance with clause 6A.5.4.

### **approved pass through amount**

In respect of a *positive change event* for a *Transmission Network Service Provider*:

- (a) the amount which the *AER* determines should be passed through to *Transmission Network Users* under clause 6A.7.3(d)(2); or
  - (b) the amount which the *AER* is taken to have determined under clause 6A.7.3(e)(1),
- as the case may be.

**Authority**

Any government, government department, instrumentality, *Minister*, agency, statutory authority or other body in which a government has a controlling interest, and includes the *AEMC*, *NEMMCO*, the *AER* and the *ACCC* and their successors.

**capital expenditure criteria**

Each of the matters listed in clause 6A.6.7(c)(1)-(3).

**capital expenditure factors**

Each of the factors listed in clause 6A.6.7(e)(1)-(10).

**capital expenditure objectives**

The objectives set out in clause 6A.6.7(a).

**commercial arbitrator**

A dispute resolution panel (within the meaning of section 58 of the *National Electricity Law*) established pursuant to clause S6A.3.3(b) of schedule 6A.3.

**contingent project**

In relation to a *revenue determination*, a *proposed contingent project* that is determined by the *AER*, in accordance with clause 6A.8.1(b), to be a *contingent project* for the purposes of that *revenue determination*.

**Cost Allocation Guidelines**

The guidelines referred to in clause 6A.19.3.

**Cost Allocation Methodology**

For a *Transmission Network Service Provider*, the Cost Allocation Methodology approved or taken to be approved by the *AER* for that *Transmission Network*



*Service Provider* under clauses 6A.19.4(c) and (d) as amended from time to time in accordance with clauses 6A.19.4(f) and (g).

### **Cost Allocation Principles**

The principles set out in clause 6A.19.2.

### **CPI**

As at a particular time, the Consumer Price Index: All Groups Index Number, weighted average of eight capital cities published by the Australian Bureau of Statistics for the most recent quarter that precedes that particular time and for which the index referred to has been published by the Australian Bureau of Statistics as at that time. If that index ceases to be published or is substantially changed, *CPI* will be such other index as is determined by the *AER* as a suitable benchmark for recording general movements in prices.

### **distribution network user access**

The *power transfer capability* of the *distribution network* in respect of:

- (c) *generating units* or a group of *generating units*; and
- (d) *network elements*,

at a *connection point* which has been negotiated in accordance with rule 5.5.

### **easements tax change event**

A change in the amount of land tax that is payable by the *Transmission Network Service Provider* in respect of the easements which are used for the purposes of the relevant *transmission network* where that change results in the *Transmission Network Service Provider* incurring *materially* higher or *materially* lower costs in providing *prescribed transmission services* than it would have incurred but for that event. For these purposes the change in the amount of land tax that is payable by the *Transmission Network Service Provider* must be calculated by applying the relevant land tax rate to the difference between:

- (a) the value of the easements which is used for the purposes of assessing the land tax that is payable; and
- (b) the value of the easements which is assumed for the purposes of the *revenue determination* for the *regulatory control period*,

and an *easements tax change event* does not include an event described in paragraphs (a), (b) or (c) of the definition of *tax change event*.

**efficiency benefit sharing scheme**

A scheme developed and *published* by the *AER* in accordance with rule 6A.5.

**efficiency benefit sharing scheme parameters**

For an *efficiency benefit sharing scheme*, those parameters that are *published* by the *AER* in respect of that scheme pursuant to clause 6A.6.5(c).

**eligible pass through amount**

In respect of a *positive change event* for a *Transmission Network Service Provider*, the increase in costs in the provision of *prescribed transmission services* that the *Transmission Network Service Provider* has incurred and is likely to incur until the end of the *regulatory control period* as a result of that *positive change event* (as opposed to the revenue impact of that event).

**indexed amount**

As at any time and in relation to a dollar value that is expressly set out in Part C of Chapter 6A, that dollar value multiplied by  $CPI_a/CPI_b$

where:

$CPI_a$  is the *CPI* as at that time; and

$CPI_b$  is the Consumer Price Index: All Groups Index Number, weighted average of eight capital cities published by the Australian Bureau of Statistics for the quarter ending 30 June 2006.

**information guidelines**

Guidelines made by the *AER* for the purpose of guiding a *Transmission Network Service Provider* in the submission of certified annual statements and other related information in accordance with clause 6A.17.2.

**insurance event**

An event for which the risk of its occurrence is the subject of insurance taken out by or for a *Transmission Network Service Provider*, for which an allowance is provided in the *total revenue cap* for the *Transmission Network Service Provider* and in respect of which:

- (a) the cost of the premium paid or required to be paid by the *Transmission Network Service Provider* in the *regulatory year* in which the cost of the premium changes is higher or lower than the premium that is provided for in the *maximum allowed revenue* for the provider for that *regulatory year* by an amount of more than 1% of the *maximum allowed revenue* for the provider for that *regulatory year*;
- (b) the risk eventuates and, as a consequence, the *Transmission Network Service Provider* incurs or will incur all or part of a deductible where the amount so incurred or to be so incurred in a *regulatory year* is higher or lower than the allowance for the deductible (if any) that is provided for in the *maximum allowed revenue* for the provider for that *regulatory year* by an amount of more than 1% of the *maximum allowed revenue* for the provider for that *regulatory year*;
- (c) insurance becomes unavailable to the *Transmission Network Service Provider*; or
- (d) insurance becomes available to the *Transmission Network Service Provider* on terms materially different to those existing as at the time the *revenue determination* was made (other than as a result of any act or omission of the provider which is inconsistent with good electricity industry practice).

### **jurisdictional electricity legislation**

Has the meaning given to that term in the *National Electricity Law*.

### **materially**

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

### **negative change event**

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

**negative network support event**

A *network support event* which entails a *Transmission Network Service Provider* making lower *network support payments* in the preceding *regulatory year* than the amount of *network support payments* (if any) that is provided for in the *annual building block revenue requirement* for the provider for that *regulatory year*.

**negative pass through amount**

In respect of a *negative change event* for a *Transmission Network Service Provider*, an amount that is not greater than a *required pass through amount* as determined by the *AER* under clause 6A.7.3(g).

**negotiated transmission service**

Any of the following services:

- (a) a *shared transmission service* that:
  - (1) exceeds the *network* performance requirements (whether as to quality or quantity) (if any) as that *shared transmission service* is required to meet under any *jurisdictional electricity legislation*; or
  - (2) except to the extent that the *network* performance requirements which that *shared transmission service* is required to meet are prescribed under any *jurisdictional electricity legislation*, exceeds or does not meet the *network* performance requirements (whether as to quality or quantity) as are set out in schedule 5.1a or 5.1;
- (b) *connection services* that are provided to serve a *Transmission Network User*, or group of *Transmission Network Users*, at a single *transmission network connection point*, other than *connection services* that are provided by one *Network Service Provider* to another *Network Service Provider* to connect their *networks* where neither of the *Network Service Providers* is a *Market Network Service Provider*; or
- (c) *use of system services* provided to a *Transmission Network User* and referred to in rule 5.4A(f)(3) in relation to *augmentations* or *extensions* required to be undertaken on a *transmission network* as described in rule 5.4A,

but does not include an *above-standard system shared transmission service* or a *market network service*.

### **Negotiated Transmission Service Pricing Criteria**

For a *Transmission Network Service Provider* under a *transmission determination*, the criteria set out in that *transmission determination* pursuant to clause 6A.9.4.

### **Negotiated Transmission Service Pricing Principles**

The principles set out in clause 6A.9.1.

### **negotiating framework**

For a *Transmission Network Service Provider*, the negotiating framework approved or included by the *AER* for that *Transmission Network Service Provider* in a final decision under clause 6A.14.1(6). The term negotiating framework is also defined in clause 6.6.7 for the purposes of that clause and, when used in that clause, has the meaning given to it for those purposes.

### **network support event**

- (a) If, at the end of a *regulatory year* of a *regulatory control period*, the amount of *network support payments* made by a *Transmission Network Service Provider* for that previous *regulatory year* is higher or lower than the amount of *network support payments* (if any) that is provided for in the *annual building block revenue requirement* for the *Transmission Network Service Provider* for that *regulatory year*, this constitutes a *network support event*.
- (b) In calculating the amount for the purposes of a *network support event* referred to in paragraph (a), the amount of *network support payments* made by a *Transmission Network Service Provider* must not include an amount of *network support payments* that are a substitute for a *network augmentation* where an allowance for capital expenditure in relation to that *network augmentation* has been provided for in the *revenue determination*.

### **network support pass through amount**

The amount that should be passed through to *Transmission Network Users* in the *regulatory year* following the preceding *regulatory year*, in respect of a *network support event* for a *Transmission Network Service Provider*.

**network support payment**

A payment by a *Transmission Network Service Provider* to:

- (a) any *Generator* providing *network* support services in accordance with clause 5.6.2; or
- (b) any other person providing a *network* support service that is an alternative to *network augmentation*.

**non-regulated transmission services**

A *transmission service* that is neither a *prescribed transmission service* nor a *negotiated transmission service*.

**operating expenditure criteria**

Each of the matters listed in clause 6A.6.6(c)(1)-(3).

**operating expenditure factors**

Each of the factors listed in clause 6A.6.6(e)(1)-(10).

**operating expenditure objectives**

The objectives set out in clause 6A.6.6(a).

**pass through event**

Any one of the following events:

- (a) an *easements tax change event*;
- (b) an *insurance event*;
- (c) a *regulatory change event*;
- (d) a *service standard event*;
- (e) a *tax change event*; or
- (f) a *terrorism event*.

**performance incentive scheme parameters**

For a *service target performance incentive scheme*, those parameters that are *published* by the AER in respect of that scheme pursuant to clause 6A.7.4(c).

**positive change event**

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

**positive network support event**

A *network support event* which entails a *Transmission Network Service Provider* making higher *network support payments* in the preceding *regulatory year* than the amount of *network support payments* (if any) that is provided for in the *annual building block revenue requirement* for the provider for that *regulatory year*.

**positive pass through amount**

An amount that is not greater than an *eligible pass through amount* that a *Transmission Network Service Provider* proposes in relation to a *positive change event* under clause 6A.7.3(c).

**post-tax revenue model**

The model used to prepare the *Revenue Proposal* in accordance with rule 6A.5.

**proposed contingent capital expenditure**

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

**proposed contingent project**

A proposal by a *Transmission Network Service Provider* as part of a *Revenue Proposal* for a project to be determined by the AER as a *contingent project* for the purposes of a *revenue determination* in accordance with clause 6A.8.1(b).

**regulatory change event**

A change in a *regulatory obligation* which:

- (a) occurs on or after the commencement of the *revenue determination* for the *regulatory control period*;
- (b) substantially affects the manner in which the *Transmission Network Service Provider* provides *prescribed transmission services*; and
- (c) results in the provider incurring *materially* higher or *materially* lower costs in providing those services, than it would have incurred but for that event,

and a *regulatory change event* does not include an event described in paragraphs (a), (b), (d), (e) or (f) of the definition of *pass through event*.

**regulatory obligation**

Has the meaning given to that term in the *National Electricity Law*.

**regulatory year**

Each consecutive period of 12 calendar months in a *regulatory control period*, the first such 12 month period commencing at the beginning of the *regulatory control period* and the final 12 month period ending at the end of the *regulatory control period*.

**relevant tax**

Any tax payable by a *Transmission Network Service Provider* other than:

- (a) income tax and capital gains tax;
- (b) stamp duty, financial institutions duty and bank accounts debits tax;
- (c) penalties, charges, fees and interest on late payments, or deficiencies in payments, relating to any tax; or
- (d) any tax that replaces or is the equivalent of or similar to any of the taxes referred to in paragraphs (a) to (b) (including any State equivalent tax).

**required pass through amount**

In respect of a *negative change event* for a *Transmission Network Service Provider*, the costs in the provision of *prescribed transmission services* that the *Transmission Network Service Provider* has saved and is likely to save until the



end of the *regulatory control period* as a result of that *negative change event* (as opposed to the revenue impact of that event).

### **revenue determination**

A determination referred to in clause 6A.2.2(1) and rule 6A.4 as substituted (if at all) pursuant to clause 6A.7.1 or rule 6A.15 or as amended pursuant to clause 6A.8.2.

### **Revenue Proposal**

For a *Transmission Network Service Provider*, a proposal submitted or resubmitted by the *Transmission Network Service Provider* to the *AER* pursuant to clause 6A.10.1(a), clause 6A.11.2 or clause 6A.12.3(a) (as the context requires).

### **roll forward model**

The model developed and published by the *AER* for the roll forward of the regulatory asset base for *transmission systems* in accordance with clause 6A.6.1.

### **Service Applicant**

Has the meaning given in clause 6A.9.5(a).

### **service standard event**

Any decision made by an *Authority* or any amendment to an applicable law (including, but not limited to, the *National Electricity Law*, the *Rules*, any transmission licence of a *Transmission Network Service Provider* or any applicable *jurisdictional electricity legislation* (as that term is defined in the *National Electricity Law*)) which has the effect of:

- (a) substantially varying the manner in which a *Transmission Network Service Provider* is required to provide any *prescribed transmission services* as at the date of the *revenue determination*;
- (b) imposing, removing or varying minimum service standards on or that apply to a *Transmission Network Service Provider* in respect of *prescribed transmission services* that are different to the minimum standards applicable to the *Transmission Network Service Provider* as at the date of the *revenue determination*; or

- (c) altering the nature or scope of the *prescribed transmission services* provided by a *Transmission Network Service Provider* from those as at the date of the *revenue determination*,

and which results in the *Transmission Network Service Provider* incurring *materially higher or materially lower costs* in providing *prescribed transmission services* than it would have incurred but for that event.

#### **service target performance incentive scheme**

A scheme developed and *published* by the *AER* in accordance with clause 6A.7.4.

#### **shared transmission service**

A service provided to a *Transmission Network User* for use of a *transmission network* for the conveyance of electricity (including a service that ensures the integrity of the related *transmission system*).

#### **submission guidelines**

The guidelines made by the *AER* in accordance with rule 6A.10 for the purposes of guiding a *Transmission Network Service Provider* in the submission of a *Revenue Proposal* under Part E of Chapter 6A.

#### **system-wide benefits**

Benefits that extend beyond a *Transmission Network User*, or group of *Transmission Network Users*, at a single *transmission connection point* to other *Transmission Network Users*.

#### **tax**

Any tax, levy, impost, deduction, charge, rate, rebate, duty, fee or withholding which is levied or imposed by an *Authority*.

#### **tax change event**

Any of the following:

- (a) a change in (or a change in the application or official interpretation of) a *relevant tax* or the way in or rate at which a *relevant tax* is calculated;
- (b) the removal of a *relevant tax*; or

- (c) the imposition of a *relevant tax*,  
which:
- (d) occurs on or after the commencement of the *revenue determination* for the *regulatory control period*; and
- (e) results in the *Transmission Network Service Provider* incurring *materially* higher or *materially* lower costs in providing *prescribed transmission services* than it would have incurred but for that event.

**terrorism event**

An act (including, but not limited to, the use of force or violence or the threat of force or violence) of any person or group of persons (whether acting alone or on behalf of in connection with any organisation or government), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons (including the intention to influence or intimidate any government and/or put the public, or any section of the public, in fear) and which results in a *Transmission Network Service Provider* incurring *materially* higher or *materially* lower costs in providing *prescribed transmission services* than it would have incurred but for that act.

**total revenue cap**

For a *Transmission Network Service Provider* for a *regulatory control period*, the sum of the *maximum allowed revenues* for that provider for each *regulatory year* of that *regulatory control period* as calculated in accordance with clause 6A.5.3 and set out in a *revenue determination*.

**transmission consultation procedures**

The procedures set out in Part H of Chapter 6A that must be followed by the *AER* in making, developing or amending guidelines, models, or schemes or in reviewing values or methodologies.

**transmission determination**

Has the meaning given in the *National Electricity Law*, and includes a determination by the *AER* as described in rule 6A.2.

**transmission network user access**

The *power transfer capability* of the *transmission network* in respect of:

- (a) *generating units* or group of *generating units*;
- (b) *network elements*; or
- (c) *plant*,

at a *connection point* which has been negotiated in accordance with rule 5.4A.

**trigger event**

In relation to a *proposed contingent project* or a *contingent project*, a specific condition or event described in clause 6A.8.1(c), the occurrence of which, during the relevant *regulatory control period*, may result in the amendment of a *revenue determination* under clause 6A.8.2.

**WACC**

*Weighted average cost of capital.*

**[3] Chapter 10 Glossary**

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

**avoided Customer TUOS charges**

The charges described in rule 5.5(h).

**connection service**

An *entry service* (being a service provided to serve a *Generator* or a group of *Generators*, or a *Network Service Provider* or a group of *Network Service Providers*, at a single *connection point*) or an *exit service* (being a service provided to serve a *Transmission Customer* or *Distribution Customer* or a group of *Transmission Customers* or *Distribution Customers*, or a *Network Service Provider* or a group of *Network Service Providers*, at a single *connection point*).

**contestable**

- (a) In relation to *transmission services* a service which is permitted by the laws of the relevant *participating jurisdiction* to be provided by more than one *Transmission Network Service Provider* as a contestable service or on a competitive basis.
- (b) In relation to *distribution services*, a service which is permitted by the laws of the relevant *participating jurisdiction* to be provided by more than one *Distribution Network Service Provider* as a contestable service or on a competitive basis.

**Customer transmission use of system, Customer transmission use of system service**

A service provided to a *Transmission Network User* for use of the *transmission network* for the conveyance of electricity (including where it has been negotiated in accordance with clause 5.4A(f)(3)) that can be reasonably allocated to a *Transmission Network User* on a locational basis, but does not include *Generator transmission use of system services*.

**Distribution Ring-Fencing Guidelines**

Has the meaning given in clause 6.12.2(a).

**entry service**

A service provided to serve a *Generator* or a group of *Generators*, or a *Network Service Provider* or a group of *Network Service Providers*, at a single *connection point*.

**excluded distribution services**

*Distribution services* which are subject to a more “light-handed” regulatory approach than that described in clause 6.2.5 with the result that the costs of and revenue for such services are excluded from the *revenue cap* or *price cap* which applies to *prescribed distribution services*.

**exit service**

A service provided to serve a *Transmission Customer* or *Distribution Customer* or a group of *Transmission Customers* or *Distribution Customers*, or a *Network*

*Service Provider* or a group of *Network Service Providers*, at a single *connection point*.

**Generator transmission use of system, Generator transmission use of system service**

A service provided to a *Generator* for:

- (a) use of the *transmission network* which has been negotiated in accordance with clause 5.4A(f)(3)(i); or
- (b) use of a *new transmission network investment* asset for the conveyance of electricity that can be reasonably allocated to a *Generator* on a locational basis.

**maximum allowed revenue**

For a *Transmission Network Service Provider* for a *regulatory year* of a *regulatory control period*, the amount calculated as such in accordance with rule 6A.3.

**negotiable service**

- (a) In relation to *transmission services* means *negotiated transmission services*.
- (b) In relation to *distribution services* means:
  - (1) an *excluded distribution service*;
  - (2) that part of a *prescribed distribution service* which is to be provided to a standard which is higher or lower than any standard:
    - (i) described in schedule 5.1;
    - (ii) outlined in the standards published in accordance with 6.6.5(a)(3); or
    - (iii) required by any regulatory regime administered by the *AER* or a *Jurisdictional Regulator* (as appropriate);
  - (3) *connection services, use of system services* and *distribution network user access* provided to an *Embedded Generator*, for which charges are negotiated under rule 5.5; or
  - (4) *connection services, use of system services* and *distribution network user access* provided to a *Market Network Service Provider*, for which charges are negotiated under rule 5.5,and does not include a *contestable* service.

**negotiated use of system charges**

The charges described in clauses 5.4A(f)(3) or 5.5(f)(3).

**negotiated use of system service**

A *use of system service* in respect of which:

- (a) a *Connection Applicant* may negotiate with a *Transmission Network Service Provider*;
- (b) an *Embedded Generator* may negotiate with a *Distribution Network Service Provider*; or
- (c) a *Market Network Service Provider* may negotiate with a *Distribution Network Service Provider*,

in accordance with clauses 5.4A(f)(3) or 5.5(f)(3).

**network coupling point**

The point at which *connection assets* join a *distribution network*, used to identify the *distribution service* price payable by a *Customer*, more fully described in schedule 6.3.

**prescribed distribution services**

*Distribution services* provided by *distribution network* assets or associated *connection assets* which are determined by the *Jurisdictional Regulator* under clause 6.2.4(a) as those which should be subject to economic regulation in accordance with the principles set out in clause 6.2.5.

**prescribed transmission service**

Any of the following services:

- (a) a *shared transmission service* that:
  - (1) does not exceed such *network* performance requirements (whether as to quality or quantity) as that *shared transmission service* is required to meet under any *jurisdictional electricity legislation*;
  - (2) except to the extent that the *network* performance requirements which that *shared transmission service* is required to meet are prescribed under any *jurisdictional electricity legislation*, does not exceed such

*network* performance requirements (whether as to quality or quantity) as are set out in schedule 5.1a or 5.1; or

(3) is an *above-standard system shared transmission service*;

(b) services that are required to be provided by a *Transmission Network Service Provider* under the *Rules*, or in accordance with *jurisdictional electricity legislation*, to the extent such services relate to the provision of the services referred to in paragraph (a), including such of those services as are:

(1) required by *NEMMCO* to be provided under the *Rules*; and

(2) necessary to ensure the integrity of a *transmission network*, including through the maintenance of *power system security* and assisting in the planning of the *power system*; or

(c) *connection services* that are provided by a *Transmission Network Service Provider* to another *Network Service Provider* to *connect* their *networks* where neither of the *Network Service Providers* is a *Market Network Service Provider*;

but does not include a *negotiated transmission service* or a *market network service*.

### **publish/publication**

(a) In the case of an invitation or notice referred to in clauses 6A.11.3(a)(5), 6A.12.2(a)(3) and (4) or clause 6A.20(b)(3), publish on the *AER's* website and in a newspaper circulating generally throughout Australia.

(b) In the case of a notice referred to in clauses 6A.12.2(a)(2), 6A.13.3 or 6A.20(e)(2), publish on the *AER's* website, in the *South Australian Gazette* and in a newspaper circulating generally throughout Australia.

(c) Where referred to in any other provision of Chapter 6A (other than Part I), publish on the *AER's* website and make a copy available at the offices of the *AER*.

(d) In any other case, make available to *Registered Participants* electronically.

### **regulated interconnector**

An *interconnector* which is deemed to be a *regulated interconnector* and is subject to *transmission service* regulation and pricing arrangements in Chapter 6A.



**regulatory control period**

- (a) In respect of a *Transmission Network Service Provider*, a period of not less than 5 *regulatory years* in which a *total revenue cap* applies to that provider by virtue of a *revenue determination*.
- (b) In respect of a *Distribution Network Service Provider*, a period in which a *price cap* and/or a *revenue cap* is imposed on that provider by the relevant *Jurisdictional Regulator* under Part B of Chapter 6.

**revenue cap**

In Part B of Chapter 6, the *aggregate annual revenue requirement* for a year determined by the *Jurisdictional Regulator* applicable to a *Distribution Network Service Provider*.

**Transmission Ring-Fencing Guidelines**

The Guidelines made under rule 6A.21.

**transmission service**

The services provided by means of, or in connection with, a *transmission system*.

**weighted average cost of capital**

For a *Transmission Network Service Provider* for a *regulatory control period*, the return on capital for that *Transmission Network Service Provider* for that *regulatory control period* as calculated in accordance with clauses 6A.6.2(b) to (e), and in any other case an amount determined in a manner consistent with schedule 6.1.

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**Schedule 4      Amendment of Chapter 6 of the National Electricity Rules consequential on the making of the new Chapter 6A of the National Electricity Rules**

(Clause 7)

**[1]    Existing Chapter 6 heading**

Omit the existing heading and substitute:

**6. Economic Regulation of Distribution Services**

**[2]    Existing Part A heading “Introduction”**

Omit the existing heading and substitute:

**Part A – Introduction to Chapter 6**

**[3]    Existing clause 6.1**

Omit existing clause 6.1 and substitute:

**6.1      Introduction and application**

**6.1.1    Summary of key principles and core objectives of distribution network pricing**

- (a) Without limiting the application of any other provision of the *Rules*, this rule 6.1 summarises the key principles and core objectives which are intended to apply to the *distribution* pricing arrangements in Parts B and C.
- (b) The key principles underlying the *distribution* pricing arrangements in Parts B and C are intended to:
  - (1) promote competition in the provision of *distribution services* wherever practicable;

- (2) facilitate a commercial environment which is transparent and stable, and which does not discriminate between users of *distribution services*; and
  - (3) regulate the non competitive market for *distribution services* in a way which seeks the same outcomes as those achieved in competitive markets.
- (c) The core objectives intended to be achieved by the application of the *distribution pricing* arrangements in Parts B and C are:
- (1) efficiency in the use, operation, and maintenance of, and investment in, *distribution systems*, and in the location of generation and demand;
  - (2) upstream and downstream competition;
  - (3) price stability; and
  - (4) equity.

#### **6.1.2 Purpose**

- (a) The regulatory principles for *distribution service pricing* are set out in Part B.
- (b) The principles on which prices for *distribution services* are to be determined are set out in Part C.

#### **6.1.3 Distribution network pricing implementation**

In addition to the method of pricing *distribution services*, Part C also covers the following related matters:

- (a) prudential requirements for receipt of *distribution services*, which are set out in rule 6.7;
- (b) billing and settlements procedures associated with *distribution services*, which are set out in rule 6.8;
- (c) the collection of data which is necessary for the determination of *distribution service prices*, which is dealt with in rule 6.10.

#### **6.1.4 Application of Chapter 6 to Market Network Services**

- (a) Parts B and C do not govern the principles or rules for the calculation of prices a *Market Network Service Provider* may charge for its services.
- (b) Parts B and C do not govern the principles or rules for the calculation of prices for *distribution network services* provided by a *Distribution Network Service Provider* to:
  - (1) a *Market Network Service Provider*; or
  - (2) another *Network Service Provider* for electricity delivered to a *Market Network Service Provider* through the network of the other *Network Service Provider* (except for any such electricity

which is ultimately consumed within the other *Network Service Provider's network*).

- (c) Charges for the *distribution network services* referred to paragraph (b) are governed by the applicable provisions of rule 5.5 and clause 6.6.7 only.

**[4] Existing Part B heading “Regulation of Transmission Revenue Requirement”**

Omit the existing heading and substitute:

**Part B – Regulation of Network Pricing for Distribution Systems**

**[5] Existing clause 6.2**

Omit existing 6.2.

**[6] Existing Part C “Transmission Pricing”**

Omit the existing Part C, including the heading.

**[7] Existing Part D heading “Regulation of Network Pricing for Distribution Systems”**

Omit the existing heading and substitute:

**Part C – Distribution Network Pricing**

**[8] Existing clause 6.10**

All existing clauses, paragraphs and subparagraphs of rule 6.10 are transferred to new Part B and renumbered as rule 6.2, with all corresponding clauses, paragraphs and subparagraphs renumbered.

**[9] Amendments to National Electricity Rules consequential on renumbering of existing clause 6.10 to rule 6.2**

All references to “6.10” are renumbered as references to “6.2” wherever occurring in the National Electricity Rules, including references to clauses, paragraphs or subparagraphs, as the case may be.

**[10] Existing Part E heading “Distribution Network Pricing”**

Omit the existing heading.

**[11] Existing clauses 6.11 – 6.18**

All existing clauses, paragraphs and subparagraphs of rules 6.11 – 6.18 and the introductory unnumbered note at the beginning of the existing Part E, are transferred to new Part C and renumbered as rules 6.3 – 6.10 and including the introductory unnumbered note at the beginning of the new Part C. All corresponding clauses, paragraphs and subparagraphs are similarly renumbered.

**[12] Amendments to National Electricity Rules consequential on renumbering of existing clauses 6.11 - 6.18 to rules 6.3 - 6.10**

All references to the existing rules listed in column 1 are renumbered as references to the corresponding rules listed in Column 2, wherever occurring in the National Electricity Rules, including references to clauses, paragraphs or subparagraphs, as the case may be.

<b>Column 1</b>	<b>Column 2</b>
6.11	6.3
6.12	6.4
6.13	6.5
6.14	6.6
6.15	6.7
6.16	6.8
6.17	6.9
6.18	6.10

**[13] Existing Part EA heading “Unbundling TUOS and DUOS Charges”**

Omit the existing heading and insert after new Part C:

**Part D – Unbundling TUOS and DUOS charges**

**[14] Existing clause 6.18A**

Existing clause 6.18A is renumbered rule 6.11.

**[15] Amendment consequential on renumbering of existing clause 6.18A**

All references to “6.18A” are renumbered as references to “6.11” wherever occurring in the National Electricity Rules, including references to clauses, paragraphs or subparagraphs, as the case may be.

**[16] Existing Part F “Interconnections”**

Omit existing Part F, including the heading.

**[17] Existing Part G heading “Ring Fencing Arrangements for Network Service Providers”**

Omit the existing Part G, including the heading, and insert after new Part D:

**Part E – Ring Fencing Arrangements for Distribution Network Service Providers**

## **6.12 Distribution Ring-Fencing Guidelines**

### **6.12.1 Compliance with Distribution Ring-Fencing Guidelines**

All *Distribution Network Service Providers*, including providers who are *Market Network Service Providers*, must comply with the *Distribution Ring-Fencing Guidelines* prepared in accordance with clause 6.12.2 as from the time that any *jurisdictional derogation* from this rule 6.12 ceases to apply in respect of the *participating jurisdiction* in which the *Distribution Network Service Provider* is located.

### **6.12.2 Development of Distribution Ring-Fencing Guidelines**

- (a) *Distribution Ring-Fencing Guidelines* must be developed by each *Jurisdictional Regulator* in consultation with the *AER* and each other *Jurisdictional Regulator* for the accounting and functional separation of the provision of *prescribed distribution services* by *Distribution Network Service Providers* located in that *Jurisdictional Regulator's participating jurisdiction* from the provision of other services by such *Distribution Network Service Providers* (the "*Distribution Ring-Fencing Guidelines*").
- (b) The *Distribution Ring-Fencing Guidelines* may include, but are not limited to:
  - (1) provisions defining the need for and extent of:
    - (i) legal separation of the entity through which a *Distribution Network Service Provider* provides *distribution network services* from any other entity through which it conducts business;
    - (ii) the establishment and maintenance of consolidated and separate accounts for *prescribed distribution services* and other services provided by the *Distribution Network Service Provider*;
    - (iii) allocation of costs between *prescribed distribution services* and other services provided by the *Distribution Network Service Provider*;
    - (iv) limitations on the flow of information between the *Distribution Network Service Provider* and any other person; and
    - (v) limitations on the flow of information where there is the potential for a competitive disadvantage between those parts of the *Distribution Network Service Provider's* business which provide *prescribed distribution services* and parts of the *Distribution Network Service Provider's* business which provide any other services; and
  - (2) provisions allowing the *AER* or the *Jurisdictional Regulator* to add to or to waive a *Distribution Network Service Provider's* obligations under the *Distribution Ring-Fencing Guidelines*.
- (c) In developing the *Distribution Ring-Fencing Guidelines* each *Jurisdictional Regulator* must consider, without limitation, the following matters:

- (1) the need, so far as practicable, for consistency in the *Distribution Ring-Fencing Guidelines* between each *participating jurisdiction*;
  - (2) the need, so far as practicable, for consistency with Federal and State regulation in each *participating jurisdiction* of ring-fencing requirements of other utility businesses;
  - (3) the need, so far as practicable, for consistency between the *Transmission and Distribution Ring-Fencing Guidelines*; and
  - (4) the need, so far as practicable, for the *Distribution Ring-Fencing Guidelines* in each *participating jurisdiction* to be consistent with the arrangements for the *retailer of last resort* in that jurisdiction.
- (d) In developing the *Distribution Ring-Fencing Guidelines*, each *Jurisdictional Regulator* must consult with *participating jurisdictions*, *Registered Participants*, *NEMMCO* and other *interested parties*, and such consultation must be at least as extensive as the consultation prescribed by the *Rules consultation procedures*.

## **[18] Existing Schedules 6.1 – 6.8 of Chapter 6**

Omit schedules 6.1 – 6.8 and substitute:

### **Schedule 6.1 - Estimating Weighted Average Cost of Capital**

#### **1. Basis for Estimating the Weighted Average Cost of Capital of a Distribution Network Service Provider**

In 1990, the Commonwealth Treasury published a paper entitled "Financial Monitoring of Government Business Enterprises: An Economic Framework (Treasury Economic Paper Number 14)". This paper addressed the issue of setting target economic rates of return and concluded that:

"Investments by Governments in business enterprises are not the same as social expenditures funded from the budget (requiring higher levels of taxation to pay for that), with no prospect of future payback. The business enterprises produce and sell goods and services which could alternatively be produced and sold by the private sector. Attempts to expand Government business enterprises through the use of target rates of return lower than the opportunity cost of capital in the private sector would result in a misallocation of resources between the public and private sectors.

Improved resource allocation is more likely to be achieved by having Government business enterprises operate under financial conditions paralleling as closely as possible those in the private sector, rather than by giving public enterprises an investment break. Setting target rates of return for Government business



enterprises on the basis of the marginal rate of return of private sector investments of similar risk is a central part of this even-handed treatment.

Basing target rates of return for public enterprises on the return from alternative private sector investments should result in sound investment and operational decisions at the Government enterprise level and balanced investment between the public and private sectors."

In January 1995 the National Steering Committee on Performance Monitoring of Government Business Enterprises circulated a draft paper entitled "An Economic Framework for Assessing the Financial Performance of Government Trading Enterprises". The National Steering Committee's draft paper extended the work completed in 1990 by the Commonwealth Treasury, and addressed, among other things, the issue of estimating the cost of capital of government business enterprises.

The following schedule outlines an approach to estimating the cost of capital of a government-owned *Distribution Network Service Provider* in the National Electricity Market. The approach outlined herein is consistent with that outlined in the draft paper produced in January 1995 by the National Steering Committee on Performance Monitoring of Government Business Enterprises. The approach outlined is also consistent with clause 3(1) of the Competition Principles Agreement executed by the Commonwealth, State and Territory Governments on 11 April 1995, which states:

"The objective of competitive neutrality policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities: Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership."

## **2. Outline of Method for Estimating a Network Service Provider's Weighted Average Cost of Capital**

### **2.1 Definition of Weighted Average Cost of Capital**

The *weighted average cost of capital* is a "forward looking" weighted average cost of debt and equity for a commercial business entity. Accordingly, the *Network Service Provider's weighted average cost of capital* will represent the shadow price or social opportunity cost of capital as measured by the rate of return required by investors in a privately-owned company with a risk profile similar to that of the *distribution network* company.

The terms "required economic rate of return", "target rate of return" and "cost of capital" are synonymous and are used interchangeably throughout this schedule.

### **2.2 Cost of Equity**

There is a variety of methods which can be applied to estimate the cost of equity capital of a business enterprise. The Capital Asset Pricing Model (CAPM) remains the most widely accepted tool applied in practice to estimate the cost of equity.

The CAPM is a model based on the proposition that the required rate of return on equity is equal to the risk-free rate of return plus a risk premium.

The theory underlying the CAPM is rigorous. However, in applying the CAPM, there should be a recognition of the limitations of the model. The limitations of CAPM, as

with any model, relate mainly to the measurement and estimation of relevant input variables. Consequently, the CAPM should be regarded as providing an indication of the cost of equity, rather than a firm and precise measurement.

### 2.3 Cost of Debt

The cost of debt is estimated with reference to current prices in domestic and overseas corporate debt markets. Given the long lives of *network* assets, the cost of debt should reflect the cost of a long-dated debt portfolio.

## 3. Estimation of the Cost of Equity

The *Network Service Provider's* required rate of return on equity is estimated using the Capital Asset Pricing Model (CAPM):

$$R_e = R_f + \beta (R_m - R_f)$$

where  $R_e$  = required rate of return on equity, after company tax

$R_f$  = risk - free rate

$(R_m - R_f)$  = the risk premium above the risk-free rate required for a market-weighted (ie diversified) portfolio of securities

$\beta$  = a measure of the asset's riskiness relative to the market

The approach to estimating values for each of the inputs to the CAPM is outlined in detail below.

### 3.1 Risk-free Rate

The risk free rate is normally taken to be the yield to maturity on long term (10 year) Commonwealth bonds, with the equity market risk premium (see section 3.2 below) also measured historically from such a benchmark.

### 3.2 Equity Market Risk Premium

The equity market risk premium (MRP) can be observed by considering the historical data of yield gaps between returns on equity,  $R_m$  and returns on risk-free debt,  $R_f$ , namely:

$$MRP = R_m - R_f$$

### 3.3 Beta

Beta is a measure of the extent to which the return on a given equity investment moves with the return on the equity market.

Beta factor measurements for all listed Australian companies are publicly available. Where beta data is not available (because the *Network Service Provider* is not a listed company), it is necessary to estimate a beta factor. This can be done by observing the beta factors of listed companies (in Australia and overseas) which have business risk profiles and capital structures similar to those of Australian *Network Service Providers*.

### 3.4 Capital Structure and Market Risk Premium

The risk premium sought by equity investors will be a function of:

- the underlying market risk (volatility) of the pre-financing cash flows of the investment, and
- the level of financial risk, which is in turn dependent on the capital structure of the entity.

Published data on share market betas and related market risk premia relate to equity returns, and therefore reflect the market risk and the financial risk faced by investors.

To ensure validity of the CAPM calculations, it is necessary to apply assumptions of capital structure and market risk premia which are consistent with one another. In addition, where beta and other data relating to listed companies are being used to impute a cost of equity for a government business enterprise, the capital structures of the GBE and the private sector surrogate(s) should be reasonably comparable. This ensures that the beta imputed for the GBE correctly reflects the financial and market risk of the GBE.

## **4. Determination of the Cost of Debt**

### **4.1 The Question of the Government Guarantee on Borrowings**

The National Steering Committee on Performance Monitoring of GBE's recommends that where the GBE has access to Government-guaranteed borrowings, the guarantor should charge the GBE a fee for provision of the Government guarantee. The guarantee fee would generally be the difference between the cost of Government debt and the cost of debt which would be faced by the enterprise if it was privately owned.

Application of the fee in this manner would increase the GBE's cost of debt to levels which reflect its full opportunity cost. This approach is consistent with the principles outlined in section 1 of this schedule and with clause 3(4)(b)(ii) of the Competition Principles Agreement which states:

"The Parties will impose on the Government business enterprise debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees".

### **4.2 Estimating the Cost of Debt**

Typically, a *Network Service Provider* will have a portfolio of debt consisting of lines of debt with different maturities, durations and yields. Given the long life of *network* assets this debt portfolio would typically be long-dated. A weighted average cost of debt should be estimated, taking into account the maturity and duration characteristics of the portfolio and the associated current market yields. Market yields applicable to the debt should reflect fully the *Network Service Provider's* credit risk.

## **5. Determination of the Weighted Average Cost of Capital**

### **5.1 The Relationship Between Capital Structure and Weighted Average Cost of Capital**

The National Steering Committee on Performance Monitoring of GBE's draft paper entitled "An Economic Framework for Assessing the Financial Performance of Government Trading Enterprises" states:

"Gearing should not affect a government trading enterprise's target rate of return, which implies that shareholder value will also be insensitive to varying levels of debt. For practical ranges of capital structure (say less than 80% debt), the required rate of return on total assets for a government trading enterprise should not be affected by changing debt to equity ratios".

As noted in section 3.4, where beta and other data relating to listed companies are being used to impute a cost of equity for a government business enterprise, the capital structures of the GBE and the private sector surrogate(s) should be reasonably comparable. This ensures that the beta imputed for the GBE correctly reflects the financial and market risk of the GBE.

## 5.2 Taxation and the Impacts of Dividend Imputation

Clause 3(4)(b)(i) of the Competition Principles Agreement states:

"The Parties will impose on the Government business enterprise full Commonwealth, State and Territory taxes or tax equivalent systems".

*Weighted average cost of capital* can be defined and expressed in pre-company tax terms or after company tax terms. Both definitions of *weighted average cost of capital* will yield exactly the same results, provided that:

- the definition of cash flows (ie costs and revenue requirements) is consistent with the definition of *weighted average cost of capital* applied; and
- the tax rate used to "gross-up" after tax required return to pre-tax required return is the effective tax rate<sup>1</sup> paid by the company.

Under an imputation tax system, a proportion of the tax paid at the company level is, in effect, personal tax withheld at the company level. Australia has a full imputation tax system, however the proportion of company tax paid which can be claimed as a tax credit against personal tax varies, depending on:

- the marginal tax rate of the recipient of the franked dividend; and
- whether the recipient is an Australian tax-payer.

The value of franking credits, will impact on:

- the value of an investment as perceived by various investors; and
- the *weighted average cost of capital* of a tax-paying corporate entity.

In October 1993, researchers at the Melbourne University Graduate School of Management completed initial empirical research into the value of franking credits in Australia. The results of this research indicate that franking credits are, on average, valued by equity investors at approximately 50 cents in the dollar.

As the ultimate owners of government business enterprises, tax-payers would value their equity (and post corporate tax cash flows) on exactly the same basis as they would value an investment in any other corporate tax-paying entity. On this basis, it would be

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<sup>1</sup> Effective tax rate = Actual tax paid ÷ (revenue - Operating expenses - net interest paid - Depreciation)

reasonable to assume the average franking credit value (of 50%) in the calculation of the *Network Service Provider's pre-tax weighted average cost of capital*.

### 5.3 Calculation of the Weighted Average Cost of Capital Under an Imputation tax

The formula for calculating pre-tax *weighted average cost of capital* ("WACC") is:

$$WACC = \frac{R_e}{1 - T(1 - \gamma)} * \frac{S}{V} + R_d * \frac{D}{V}$$

where:

$R_e$  = required rate of return on equity, after company tax

$R_d$  = pre-tax weighted average cost of debt

T = effective corporate tax rate

$\gamma$  = value of franking credits or imputation factor

S = market value of equity

D = market value of debt

V = market value of debt plus equity

### 5.4 Example Calculation of Pre-tax Weighted Average Cost of Capital

The calculations below are provided for illustrative purposes only, and the input assumptions have no status or purpose other than facilitating a demonstration of the approved method for estimating *weighted average cost of capital*.

Key assumptions:

Effective tax rate	33%
Imputation factor	0.5
Consumer Price Index	3.3%
Equity (geared) $\beta$	0.4
Risk free rate	8.2% nominal
Implied real risk free rate	4.75% real
Equity market risk premium	6.6%
Cost of debt margin over risk free rate	1.25%
Weighted average cost of debt	9.45% nominal

Capital structure:

Debt:	55%
Equity:	45%

Cost of equity:

$$\begin{aligned}
 R_e &= R_f + \beta (R_m - R_f) \\
 &= 8.2 + (0.4 \times 6.6) \\
 &= 10.8\% \text{ nominal after tax}
 \end{aligned}$$

Before tax *weighted average cost of capital*:

$$\begin{aligned}
 WACC &= \frac{R_e}{1 - T(1 - y)} \times \frac{S}{V} + R_d \times \frac{D}{V} \\
 &= \frac{10.8\%}{(1 - 0.33)(1 - 0.5)} \times \frac{45}{100} + 9.45\% \times \frac{55}{100} \\
 &= 11.0\% \text{ nominal before tax}
 \end{aligned}$$

Assumed inflation = 3.3%, so 11.0% nominal before tax = 7.5% real before tax

## Schedule 6.2 - Maximum Negotiated Use of System Service Price

This schedule 6.2 describes the method by which *Distribution Network Service Providers* are to determine the maximum prices to be paid by *Generators* or *Market Network Service Providers connected to a distribution network* for use of system where they have negotiated to pay *negotiated use of system charges* under rule 5.5(f)(3). This method calculates the maximum prices which a *Distribution Network Service Provider* can charge a *Generator* to provide a nominated capacity at the *Generator's connection point* at a standard of service comparable with that offered to *Distribution Customers*.

This schedule does not apply to the calculation of any *distribution network user access charge* which a person has agreed to pay the *Distribution Network Service Provider* to guarantee a level and standard of service of *power transfer capability* under rule 5.5(f)(4). Any such charges or compensation are costs or revenue which fall outside the relevant *revenue cap* or *price cap*.

The schedule also does not apply to the prices to be paid for *connection charges* which are otherwise payable under rule 5.5(f)(1).

### 1. Long Run Marginal Cost

The *negotiated use of system service price* for use of the *distribution network* is to be based on the long run marginal cost of *distribution network augmentation* required to provide *distribution service* for new *Generators* at a *connection point* in a *distribution network*.

The Long Run Marginal Cost, expressed in \$ per kW is defined as:

Net present value of cost of new network investments (\$) ÷ Net present value of new *generation capacity* (kW)

The *negotiated use of system service price* expressed in \$ per kW per year is determined by expressing the long run marginal cost as an annual charge using a discount rate over a 30 year period equal to the *Distribution Network Service Provider's weighted average cost of capital*, determined in accordance with schedule 6.1.

## 2. New Generation Capacity

New *generation* capacity is assumed to be *connected* at each *connection point* where a *negotiated use of system service* price is required.

For *distribution networks* the new *generation* capacity is the capacity of *generation* actually installed or to be installed at the *connection point*.

## 3. Cost of New Network Investment

The cost of new network investment is the estimated cost of new investments in the *distribution network* assuming:

- (i) *network* development, *loads* and *generation* correspond to the current system plus committed development only;
- (ii) new *generation* capacity as defined in section 2 above, is *connected* at the *connection point* being examined, and at no other *connection point*;
- (iii) *network loads* in the same *region* as the new *generation* capacity are to be scaled up in proportion to the increase resulting from the new *generation* capacity;
- (iv) *network* capacity is to be provided to allow all committed *loads* to be supplied with any one circuit or *transformer* out of service and with any credible combination of *generation dispatch*.

## 4. Negotiated Use of System Service Price relative to the Reference Node

For *distribution networks*, the *negotiated use of system service* price is further determined in accordance with item 5.5 of schedule 6.3.

## Schedule 6.3 - Categories of Distribution System Cost

This schedule 6.3 describes how the *distribution system* costs may be formed from the *aggregate annual revenue requirement* of a *Distribution Network Service Provider* which is determined in accordance with Part B of Chapter 6. It describes the asset categories which may be used, and defines the manner in which the assets may be categorised. It also indicates how total costs could be allocated between *excluded distribution service* categories and the *prescribed distribution service* categories of *connection*, *distribution use of system* and *common service*.

The *aggregate annual revenue requirement* of a *Distribution Network Service Provider* can be separated into four components:

- costs which relate to the provision of assets to provide service to the overall *distribution system* and any non asset related costs which may not be appropriate to allocate to individual parts of the *distribution system* (called *common service*);
- the cost of providing assets which are fully dedicated to the *supply* of a single customer or group of customers *connected* at a single point within the *distribution network* (called *connection assets*);

- the cost of assets which are shared to a greater or lesser extent by all users across the *distribution system* and can be identified as related to a specific part of the *distribution system (distribution use of system assets)*; and
- the cost of that proportion of assets which relate to the provision of services to *Embedded Generators* by *new distribution network investment* assets allocated to *Embedded Generators* as a result of the application of clause 5.6.2 (called *new distribution network investment* assets).

The *aggregate annual revenue requirement* of the *Distribution Network Service Provider* must exclude costs which relate to the provision of *excluded distribution services* and unrelated business activities including but not limited to costs in respect of *energy trading and generation*. It may be that some *connection assets* have been determined as providing *excluded distribution services* for a single customer or group of customers *connected* at a single point within the *distribution network*.

Overhead type costs such as motor vehicles, construction equipment, computers, office equipment, software, operations and management of the business general overheads and other expenses that cannot be identified against *common service*, *connection service* or *distribution use of system service* must be allocated in a fair and reasonable way across all of these services.

## 1. Common Service Costs

The *common service* cost category includes all the *distribution service* costs which cannot be allocated to users on a locational basis, ie they cover those costs which provide equivalent benefits to all users within the *distribution system* without any differentiation of their location. These costs are usually applied to users on a *postage stamp basis*.

There are two types of costs to be included in the *common service* category:

- (i) the cost of *network* assets which provide a *common service*; and
- (ii) the cost to the *Distribution Network Service Provider* of providing non asset related services to users.

### 1.1 Distribution Network Assets Which Provide Common Service

*Common service* is provided by *distribution network* assets that can include, but are not limited to, the following:

- *power system* communications networks;
- *control systems*;
- control centres;
- dynamic reactive control *plant*;
- static reactive *plant*;
- spare *plant* and equipment including that installed at *substations*;
- fixed assets such as buildings and land that are not associated with *substation* or line easements, eg head office buildings, land for future *substations* etc.; and



- *load* control signalling equipment in *substations* and on customer premises.

## 1.2 Non Asset Related Common Service Costs

The non asset related *common service* costs can include, but are not limited to, the following:

- *distribution network* switching and operations;
- *distribution network* planning and development.

Again, with these expenses only the *Distribution Network Service Provider's* share of each category should be included into the total *common service cost pool*.

The remaining *distribution network* assets are divided into three categories: *connection assets*, *distribution use of system* assets and *new distribution network investment* assets.

## 2. Connection Assets

The *connection asset* costs are recovered from the *Distribution Customers* who benefit from them and require no complex analysis to determine the sharing.

*Connection assets* are those assets (including individual assets within a *substation*) which provide supply to only those *Distribution Customers* connected at the *connection point*. This simple definition avoids the difficulties of assets changing from *connection assets* to becoming part of the *distribution network*.

Consequently *connection assets* would typically include the following:

- service lines plus *meters* for domestic customers;
- service lines, *meters*, dedicated *distribution transformers* and associated switchgear for medium size commercial and industrial *Distribution Customers*;
- *high voltage* lines and *plant* for major commercial and industrial *Distribution Customers*.

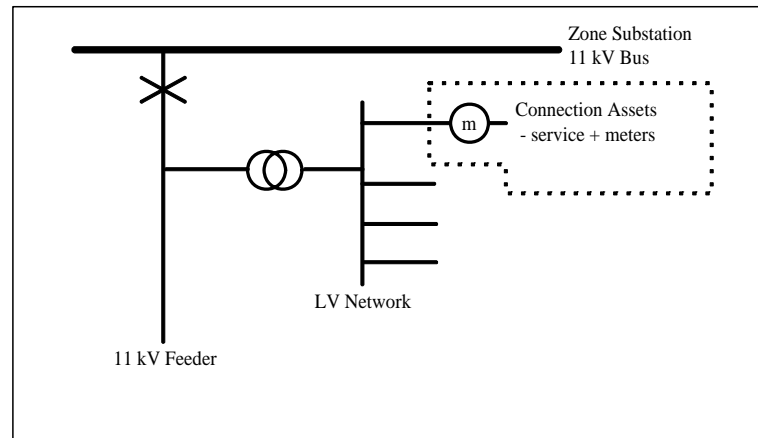
The asset related costs of *connection assets* that:

- have been provided by a *Distribution Customer*;
- have been funded by capital contributions from a *Distribution Customer*; or
- provide customer connection through *excluded distribution service*,

may be excluded from the *aggregate annual revenue requirement* of the *Distribution Network Service Provider* by the *Jurisdictional Regulator*.

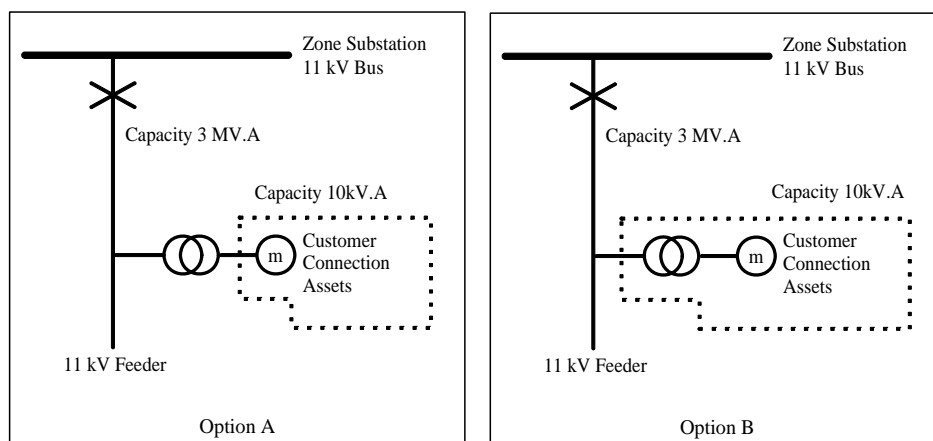
The examples below highlight some of the issues associated with *connection assets* and recommended approaches in each case. The philosophy adopted is to assign as *connection assets* those assets that can be reasonably considered as being fully dedicated to the use of the relevant *Distribution Customer*.

### Example 1 - Domestic Customer in Suburban Area



In this case there is virtually no choice, that is, the *connection assets* are the LV service lines plus *meters*, and all upstream *network* (LV mains, *distribution transformers* etc.). The *network coupling point* (boundary of *connection service* and *distribution service*) is the junction of the service mains and the LV mains. The *connection point* is the asset boundary between the service main and the customer's electrical installation.

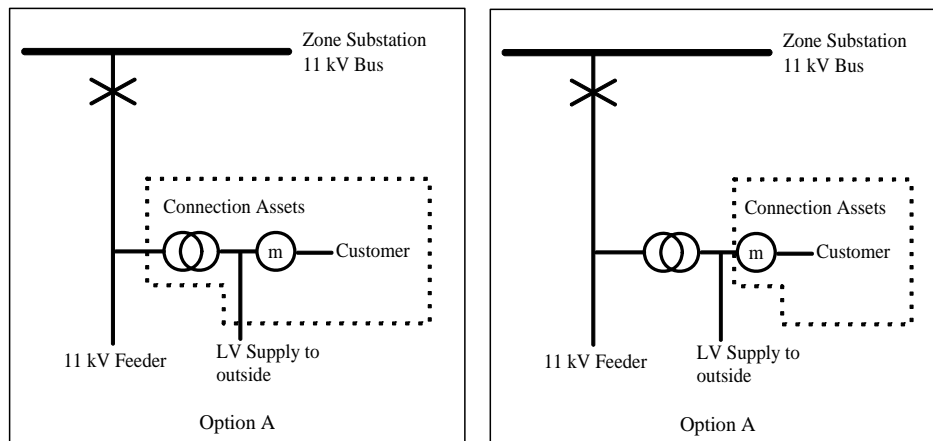
### Example 2 - Domestic Customer in Rural Area (5kV.A) / Single Customer on a spur, dedicated *distribution transformer*



The 11 kV spur line has a large capacity compared to the expected *Distribution Customer maximum demand*. The *connection charges* associated with this asset would be abnormally high for a *Distribution Customer* of this size if this and the *distribution transformer* were included as *connection assets*.

Another important consideration is that any capital contribution policy is not necessarily related to a *connection asset* policy. That is, capital contributions may be sought from the *Distribution Customer* for installation of parts of the *distribution system*. In this case, a contribution may be sought for part or all of the cost of the 11 kV spur line plus the *distribution transformer*. This does not mean that these assets need be considered as *connection assets*. Option A is often utilised as it places the *connection asset* charges for this *Distribution Customer* on an equal basis with all other domestic *Distribution Customers*. Inequities in the cost of *supply* are managed by seeking capital contributions as required.

**Example 3 - New Commercial/Industrial Customer 250kV.A maximum demand / 300kV.A transformer, LV feed to outside area for backup**

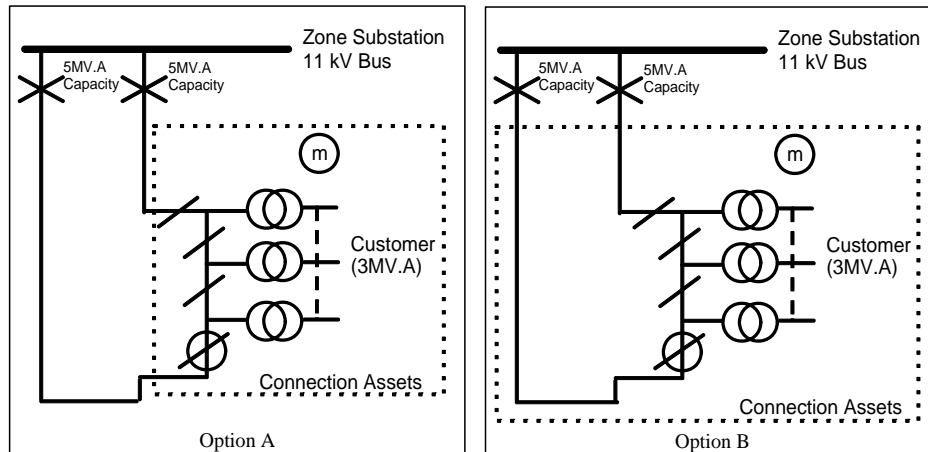


In this case a *transformer* is installed for virtually dedicated use of the commercial and industrial *Distribution Customer*. In option A, the *transformer* (and associated protection), the service and the *metering* are considered as the *connection asset*. The alternative option B has the *connection assets* as only the LV service plus the *metering*, due to the shared use of the *distribution transformer*. In this case an important issue arises as to the extent of shared usage. In this case the outside LV *supply* is for backup only and the commercial and industrial *Distribution Customer* has a demand of above 80% of *transformer* capacity.

Option A is often used since the asset is essentially dedicated to the use of the *Distribution Customer* and the backup provided by the LV interconnection works is to the mutual benefit of the *Distribution Customer* and/or the general LV network. If the LV supply fed other *Distribution Customers* on the *distribution network*, then option B may be used since the *transformer* is a genuine shared asset.

Under option A, the *network coupling point* is the tee point where the 11 kV spur joins the *distribution network*. The *connection point* is past the LV *metering point*, on the asset boundary.

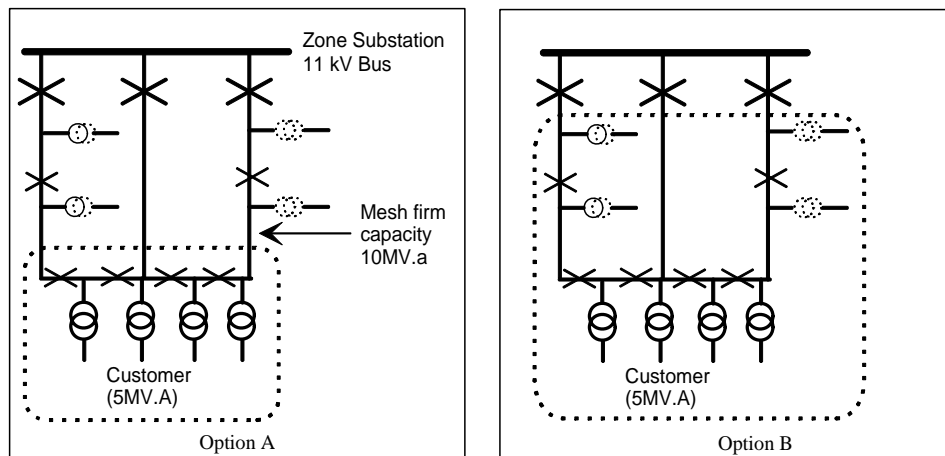
**Example 4 - C & I Customer, 3 MV.A maximum demand, requires 100% backup capability on the 11 kV feeder plus three 1500 kV.A transformers for added security**



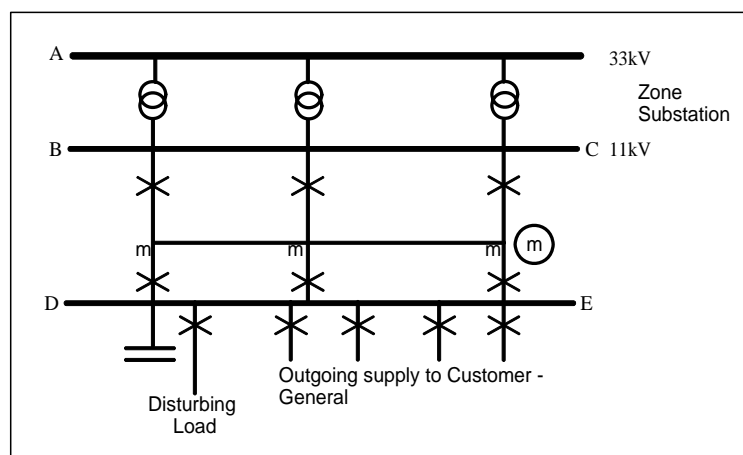
In this example, option A reflects the shallow policy with *transformers* and associated switchgear as *connection assets* and option B reflects the requirement of the *Distribution Customer* to have 100% feeder backup capability. Selecting option B may result in the feeder asset being poorly utilised which is not appropriate. If a deep *connection asset* policy was chosen, then several *Distribution Customers* in the feeder ring could share the total *connection assets*. This may work but would be difficult to administer when demands changed or when *Distribution Customers* were added to or subtracted from the ring.

Option A is simpler and addresses the issue of the *Distribution Customer* requiring three 1500 kV.A *transformers*. These *connection assets* can be provided on an agreed basis between the *Distribution Network Service Provider* and the *Distribution Customer* and provided the *Distribution Customer* pays an agreed return on those assets there is no problem. The *Distribution Customer* is paying the full cost for the improved security of *supply* from the extra *transformer*. The issue of backup feeder capacity for the *Distribution Customer* could be resolved by a capital contribution made by the *Distribution Customer* to the *Distribution Network Service Provider* for retaining spare capacity in the second feeder and/or constructing it initially.

Under option A, the *network coupling point* is the *high voltage* switchgear. The *connection point* is past the LV *metering point*, on the asset boundary.

**Example 5 - CBD Customer, 5MV.A**

This is very similar to example 4 in that option A is the shallow policy including only local *Distribution Customer* equipment and option B includes the total mesh. Again option A is favoured to avoid the complication associated with determining charging proportions for option B, particularly with *Distribution Customers* being added or subtracted. The *Distribution Network Service Provider* may choose to retain ownership of the circuit breakers to ensure operational integrity of the mesh but the whole *substation* could still be classified as a *connection asset*.

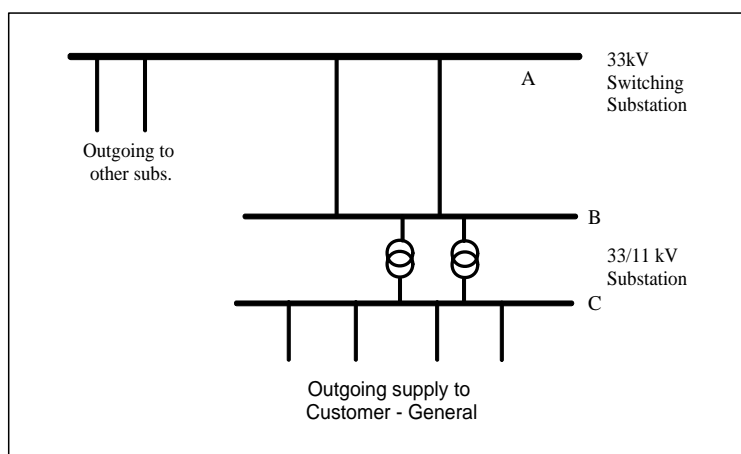
**Example 6 - Major Industrial Customer, 10+ MV.A**

In this case part of the *Distribution Customer* load is supplied from bus C at the zone *substation* and the remainder (a disturbing load) is supplied from a dedicated 33/11 kV *transformer* to reduce the impact of the disturbing load. Other *Distribution Customers* share the use of bus C with the *Distribution Customer*. Several options exist for treatment of this situation as follows:

- (1) Treat the *Distribution Customer* as having a *network coupling point* at 11 kV at busses B and C. The 11 kV feeders from B to D and C to E are treated as *connection assets* and the *Distribution Customer* is charged for the *distribution service* (upstream shared *network*) at an 11 kV rate. The *connection point* is the asset boundary at busses D and E.
- (2) Treat the *load* supplied from bus D and the *load* supplied from bus E as separate situations. That is, for the *load* on bus D the *connection assets* could be treated as all *plant* between A and D with A as the *network coupling point*. This part of the *load* would be given a *distribution service* price at a 33 kV rate. The *load* supplied from E could be treated as per option 1 with a *network coupling point* at C, *connection assets* between C and E and an 11 kV *distribution service* rate.
- (3) The final option would be to adopt a shallow *connection asset* approach with the *network coupling points* at busses D and E. The *distribution service* prices could then be based on a standard 11 kV rate or if zonal pricing was adopted, a separate *pricing zone* could be adopted for the *supply* to bus D. The separate *pricing zone* could be used to reflect differences in cost of *supply* to the bus D *load*. This zonal pricing approach may be appropriate if for example several large disturbing *loads* collected at bus D.

Another point of note in this example is the treatment of the *shunt capacitor* at bus D. The poor *power factor load* at D necessitates the use of the *capacitor bank* to minimise losses and investment in *plant* between A and D. The capacitor should be treated as a *connection asset* in this case since it is required specifically for one *Distribution Customer* as opposed to most *substation* capacitors which are for general *network reactive power* requirements and are treated as *common service* assets.

### Example 7 - Major Industrial Customer, 20+ MV.A



In this case the 33 kV feeders from A to B and the 33/11 kV *substation* are fully utilised by the *Distribution Customer load*. The choices for location of the *network coupling point* are A, B and C. A is favoured in this case since the feeders and *substation* are fully utilised and dedicated for the use of the *Distribution Customer*. If either the feeders or the 33/11 kV *substation* could be shared in future then this would be a strong argument for shifting the *network coupling point* closer to the *Distribution Customer*. In this case with the *network coupling point* at A the *Distribution Customer* would receive a *distribution service* at the 33 kV rate.

### **3. Distribution Use of System Service (other than new distribution network investment allocated to Embedded Generators)**

The remaining *distribution network* assets are included as *distribution use of system* assets, other than that proportion of *new distribution network investment* assets from which *Embedded Generators* are determined to benefit in accordance with clause 5.6.2 (in respect of which *Embedded Generators* pay charges determined in accordance with schedule 6.5). This category includes all elements of the *distribution network* which provides *use of system* service and forms the majority of the costs. The *distribution use of system* assets would typically include:

- (i) *distribution lines* including all poles and associated hardware;
- (ii) terminating switchgear (circuit breakers and isolators) including associated protection and controls;
- (iii) *transformers* between *distribution voltage* levels;
- (iv) switchgear for the above *transformers*;
- (v) underground cable systems including conduits and trenching.

The costs associated with *distribution use of system* assets are to be allocated on a usage basis and pricing structures include *voltage* levels, *Distribution Customer* classes and zones as required.

### **4. Distribution Network (new distribution network investment allocated to Embedded Generators)**

These assets are that proportion of *new distribution network investment* assets in respect of which *Embedded Generators* are determined to benefit in accordance with clause 5.6.2. The allocation of costs for this proportion of *new distribution network investment* assets is determined in accordance with schedule 6.5.

## **5. Other considerations**

### **5.1 Reactive Plant**

*Reactive plant* is provided for *distribution system* reasons and is to be treated as a *distribution network* asset.

*Reactive plant* installed at the *distribution voltage* level of *distribution substations* should be charged for as *distribution network* assets through application of a *common service* price unless it is clearly evident that such *plant* has been provided to meet the

local reactive requirements of one or more *Distribution Customers connected* at that *substation* in which case it may be charged as a *connection asset*.

## 5.2 Substation Establishment and Buildings

The majority of *substation* establishment costs are included in the asset valuation for major *plant* items. For example the cost of a circuit breaker includes associated *busbars* and isolators, secondary *plant* including *remote control* and *secondary equipment*, civil works, design installation and commissioning and project administration.

## 5.3 Meters

*Metering installations* for *Distribution Customers* will be treated as *connection assets* in accordance with the provisions outlined in Chapter 7.

## 5.4 Land

Land at *substations* which supply specific *Distribution Customers* or connect *Embedded Generators* will be treated as part of the *connection assets*. This will be site-specific; that is, the specific value of the land at each *substation* will be included with the value of the *substation* for charging purposes.

## 5.5 Embedded Generation

*Embedded Generators* can in some circumstances provide significant benefits in certain parts of a *distribution network*. An example will highlight some of the issues.

A remote *load centre* is currently supplied from two existing 33 kV feeders. The *maximum demand* of the *load* is 20 MW and it is increasing steadily. Within 5 years a third 33 kV circuit will be required as will *substation* reinforcement works in later years. Through normal supply side planning this would require a \$5M capital injection in 2005 and a further \$5M in 2010. The options to be considered in this case include:

- *supply* side reinforcement;
- a demand side management project incorporating both curtailable and *interruptible loads*;
- an *embedded generating unit*.

In this case the injection of local *generation* at the *load centre* would provide substantial loss reduction, long deferrals of the capital program and possible *reliability* improvements. An injection of 10 MW reliable *generation* would be appropriate initially. The key considerations from a *distribution network* pricing perspective are as follows:

- **Reliability** - for the *generation* to be an acceptable option the *reliability* of the *embedded generating unit* would need to be assured. This could be achieved through suitable contract arrangements, a joint venture between the *Distribution Network Service Provider* and the *Embedded Generator* or combination of the *generation* with some existing *load* so that the *load* could be interrupted if the *generation* failed. The *generation* is most critical during *network* contingencies and *reliability* considerations should include recognition of the *embedded*



*generating unit* configuration (e.g. multiple sets) and possible common failure modes.

- **Network prices** – *network* prices would be broken into the three components as shown below.
  - (1) *Common service* charges would generally be nil as under the *Rules* all *common service* costs are allocated to *Distribution Customers*.
  - (2) *Connection service* charges would be determined based on the specific *connection asset* requirements.
  - (3) *Distribution use of system* charges are negotiable between the *Distribution Network Service Provider* and the *Embedded Generator*. The charges (or payment) need to reflect the benefit available to the *Distribution Network Service Provider* from the *embedded generating unit*. This will depend on:
    - (i) the sizing of the *generation* relative to the capacity and capability of the local *network* to which the *embedded generating unit* is being connected;
    - (ii) the reliability of the *generation* and hence the ability to defer *augmentation* works while providing an overall acceptable level of *reliability*;
    - (iii) the degree to which any benefits to the *distribution network* which might accrue from the *generation* are shared between the *Distribution Network Service Provider*, the *Embedded Generator* and other *Distribution Network Users*.

In this case, if the *generation* was very *reliable* and the capital program was deferred by several years then a payment to the *Embedded Generator* for some of the deferral value could result. The long run marginal cost (benefit) of the shared *distribution network* reinforcement represents the upper limit of payment to the *Embedded Generator*.

As a general principle, commercial arrangements should be made with *Embedded Generators* and this may include a competitive tendering process to ensure equal opportunity for other *Embedded Generators*. For example, a statement of opportunity for the area concerned could be issued with an invitation to bid for *generation* capacity in the area. This would facilitate free market forces providing the optimum outcome for the *distribution network* business and existing *Distribution Customers*.

## 6. Excluded Distribution Services

Services and activities that the *Jurisdictional Regulator* may define as *excluded distribution services* may include, but are not limited to, the following:

- (a) the transportation of electricity not consumed in the *Distribution Network Service Provider's* system (i.e. on behalf of another *Distribution Network Service Provider*);
- (b) new *connection* and augmentation of existing *connection* to the *distribution network*;

- (c) services (including metering, electric lines or electrical *plant*) for the specific benefit of any *Distribution Network User* requested by that *Distribution Network User* and not made available by the *Distribution Network Service Provider* as a normal part of *prescribed distribution service* to all customers. These services can include:
  - (1) charges for moving mains, services or *meters* forming part of the *distribution network* to accommodate extension, redesign or redevelopment of any premises;
  - (2) the provision of electric *plant* (i.e. mobile generators) for the specific purpose of enabling the provision of top-up or standby supplies of electricity; and
  - (3) the provision of prepayment *meters* to customers, but only to the extent that the charge for the provision of those *meters* exceeds the charge for the provision of standard *meters* for such customers;
- (d) the relocation of electric lines and *plant* and the carrying out of associated works pursuant to any statutory obligations imposed on the *Distribution Network Service Provider*;
- (e) charges for temporary supplies;
- (f) capital contributions or other forms of prudential requirements for new works and augmentations;
- (g) charges for reserve and duplicate *supply*;
- (h) charges for supplies with higher quality and reliability standards than required by general practice;
- (i) charges for *connection points* requiring more than the least overall cost, technically acceptable assets;
- (j) charges for *distribution services* and system augmentation required to receive *energy* from an *Embedded Generator*;
- (k) charges for *generator access* for *Embedded Generators* under rule 5.5;
- (l) charges for non-compliance with a *connection agreement*, including but not limited to *reactive power*, *power factor*, harmonics, *voltage dips* and test supply requirements;
- (m) charges for multiple *connection points* to a single property not recovered through *prescribed distribution service* prices;
- (n) charges for public lighting;
- (o) charges for provision of *metering* to a standard in excess of that required for the billing of *prescribed distribution services*;
- (p) charges for provision of *TUOS/DUOS disclosure statements* to *Distribution Customers* under rule 6.11.

## Schedule 6.4 - Principles for Network Pricing

### 1. Cost reflective pricing

*Distribution network* prices should in principle be cost reflective. This is to facilitate the competitive *market*, by providing equitable access to the *distribution network* and ensuring that appropriate investment in the *distribution network* takes place in the longer term.

It is intended that all *Distribution Network Users* should be charged on a consistent basis, in accordance with their use of *distribution network* assets and taking into account the impact of *distribution network constraints*.

### 2. Non-discriminatory pricing of distribution network services

*Distribution network* pricing should provide non discriminatory access to the *distribution network*. This implies a common approach for all *Market Participants*, no matter where they are located or whether they participate or not in competitive *market* trading. Actual prices at different locations will differ because of the *distribution network* configuration and patterns of use. In this way, prices will equitably recover the costs of the *distribution network*.

*Distribution network* pricing should be based on the location in the *distribution network* and the assets employed in providing *distribution services*. The price for each *Market Participant* should be influenced by the location in the *distribution network* and the assets employed in providing *distribution services*.

### 3. Compatibility with market trading arrangements

The *distribution network* pricing proposals should be compatible with the electricity *market* design proposals to encourage and facilitate the development of these arrangements.

The pricing approach proposed should be independent of any contract arrangements that *Market Participants* may enter into for *energy* trading. In return for the payment of a *connection and use of system* fee to the local *Distribution Network Service Provider*, the *Market Participant* is entitled to enter into *energy* trading arrangements with any other *Market Participant*.

### 4. Distribution network prices for economically efficient investment

*Distribution network* prices should provide signals to optimise the cost of *distribution network* development in order to minimise the cost of development and operation of the *market*.

It should be recognised that the above objectives of non-discriminatory pricing (leading to the equitable recovery of existing costs) and economically efficient pricing for new investment in the *distribution network* are to some extent incompatible. The challenge is to devise a method of *distribution network* pricing which meets both.

### 5. Network interconnectors managed to reduce the barriers to a national market

[Deleted]

## **6. Published and transparent prices**

Prices for *distribution services* should be transparent and published in order to provide pricing signals to *Market Participants*. This is consistent with the principle adopted by COAG.

## **Schedule 6.5 – Charges to Generators for New Distribution Network Investment**

### **1. Charges to Generators for New Distribution Network Investment**

Notwithstanding any other provisions of the *Rules*, charges to *Generators* for *new distribution network investment* will not apply until any changes to the *Rules* which provide for such charges are made.

### **2. Determination of relative benefits for new distribution network investment**

Until the commencement of operation of any changes to the *Rules* referred to in paragraph 1 above, in relation to *new distribution network investment* proposed as part of the *network* planning process under clause 5.6.2, the percentage share of benefits resulting from the establishment and use of the *new distribution network investment* is deemed to be zero for *Generators* and 100% for *Distribution Customers connected to the distribution network*. All the *Distribution Network Service Provider's* capital costs of establishing and operating a *new large distribution network asset* or a *new small distribution network asset* must be allocated to *Distribution Customers* for the purposes of paragraph 3 of this schedule 6.5.

### **3. Recovery of costs for new distribution network investment**

Where a *Jurisdictional Regulator* has, as part of its economic regulation of a *Distribution Network Service Provider* under clause 6.2.5, allocated an amount to be recovered by the *Distribution Network Service Provider* for *new distribution network investment*, the *Distribution Network Service Provider* must recover that entire amount from *Distribution Customers* by charging the amount allocated to *Distribution Customers* through *distribution use of system* charges.

## **[19] References to existing schedule 6.3 relating to Distribution in old Chapter 6**

In the renumbered clauses 6.5.3(c) and 6.5.6(c)(1), omit the reference to “schedule 6.3” and substitute “schedule 6.2”.

**[20] References to existing schedule 6.7 in old chapter 6**

In the unnumbered introductory note to the new Part B (which was old Part E), omit the reference to “schedule 6.7” and substitute “schedule 6.4”.

**[21] References to existing schedule 6.8 relating to Distribution in old chapter 6**

In each of the renumbered clauses 6.5.1(a)(3), 6.5.4(a), 6.5.6(f) and 6.6.1(f), omit the reference to “schedule 6.8” and substitute “schedule 6.5”.

**[22] Old clause 6.14.1(c) Embedded Generator prices**

In renumbered clause 6.6.1(c) omit “clause 5.5(f)(2)” and substitute “rule 5.5(f)(3)”.

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## Schedule 5 Savings and Transitional Rules

(Clause 8)

### [1] Chapter 11 Savings and Transitional Rules

After rule 11.5, insert:

#### 11.6 Rules consequent on making of the National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006

##### 11.6.1 Definitions

Subject to this rule 11.6, in this rule 11.6:

**Amending Rule 2006** means the National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006.

**commencement date** means the date on which the *Amending Rule 2006* commences operation.

**current regulatory control period** means the regulatory control period applicable to an existing revenue determination.

**distribution matters** includes matters relating to the economic regulation of *distribution services*, including, but not limited to, existing determinations, decisions, instruments, agreements or any other relevant action.

**ElectraNet** means ElectraNet Pty Ltd ACN 094 482 416 trading as ElectraNet.

**existing revenue determination** means any determination made, or deemed to be made, by the *ACCC* or the *AER* on or prior to the commencement date for the purpose of regulating the revenues of a *Transmission Network Service Provider*.

**first regulatory control period** means a *regulatory control period* immediately after a current regulatory control period.

**first revenue cap determination** means the first *revenue cap determination* after an existing revenue cap determination.

**new Chapter 6A** means Chapter 6A of the *Rules* as in force immediately after the commencement of the *Amending Rule 2006*.

**old Chapter 6** means Chapter 6 of the *Rules* as in force immediately before the commencement of the *Amending Rule 2006*.

**old clause 6.5.9** means clause 6.5.9 of the *Rules* as in force immediately before the commencement of the *Amending Rule 2006*.

**old Part C** means Part C (Transmission Pricing) of Chapter 6 of the *Rules* as in force immediately before the commencement of the *Amending Rule 2006*.

**old Part F** means Part F (Interconnections) of Chapter 6 of the *Rules* as in force immediately before the commencement of the *Amending Rule 2006*.

**relevant action** includes (without limitation) any of the following actions in relation to *distribution* matters:

- (a) the performance or exercise of any function, power, obligation or right;
- (b) the making or publishing of any guideline, standard, procedure, report, negotiating framework or other document;
- (c) the giving, publishing, service or receipt of any communication, notice or other document;
- (d) the provision or receipt of any submission or information;
- (e) the making or receiving any inquiry, request or application;
- (f) the undertaking or completion of any transaction;
- (g) the payment of any monetary amount or fee.

**renumbered Chapter 6** means Chapter 6 of the *Rules* as in force immediately after the commencement of the *Amending Rule 2006*.

**SP AusNet** means SP Australia Networks (Transmission) Pty Ltd ACN 49 092 329461.

**Statement of Regulatory Principles** means the Statement of Principles published by the *AER* as part of the Compendium of Electricity Transmission Regulatory Guidelines dated August 2005.

**VENCorp** means the Victorian Energy Networks Corporation established under the Gas Industry Act 1994 (Vic) and continued under the Gas Industry Act 2001 (Vic).

#### **11.6.2 New Chapter 6A does not affect existing revenue determinations**

- (a) Subject to this rule 11.6, the old Chapter 6 continues to apply to and in respect of, existing revenue determinations as if the new Chapter 6A had not been made.
- (b) The Amending Rule 2006 has no effect on the continuing operation of clause 9.8.4G.
- (c) The Amending Rule 2006 has no effect on the continuing operation of clause 9.16.5 in so far as it:
  - (1) applies to deem a revenue cap for the *financial year* commencing on 1 July 2004;
  - (2) specifies the basis on which prices for certain transmission services during the *financial year* commencing on 1 July 2004 are to be determined;

- (3) specifies the manner in which clause 6.4.3C of the old Chapter 6 is to apply for the *financial year* commencing on 1 July 2005; and
- (4) deems a revenue cap for the period commencing on 1 July 2004 until the end of 30 June 2009 to be for a period of five years.

**11.6.3 Old Part C and Schedules 6.2, 6.3, 6.4, 6.7 and 6.8 of old Chapter 6**

Subject to this rule 11.6, old Part C (including Schedules 6.2, 6.3, 6.4, 6.7 and 6.8) continues to apply for the duration of a current regulatory control period.

**11.6.4 Old Part F of Chapter 6**

Subject to this rule 11.6, old Part F of Chapter 6 continues to apply for the duration of a current regulatory control period.

**11.6.5 Application of new Chapter 6A to Transmission Network Service Providers**

Subject to this rule 11.6, a *Transmission Network Service Provider* is not required to submit a *Revenue Proposal* or a proposed *negotiating framework* to the AER under the new Chapter 6A until a date that is 13 months before the expiry of a current regulatory control period.

**11.6.6 Application of Chapter 6 to old distribution matters**

- (a) The restructuring and renumbering of provisions of the old Chapter 6 by the *Amending Rule 2006* does not affect:
  - (1) *distribution* matters occurring or in existence before the commencement date; or
  - (2) anything done or omitted to be done in respect of *distribution* matters before the commencement date.
- (b) Without limiting paragraph (a), anything done or omitted to be done under a provision of the old Chapter 6 in respect of *distribution* matters before the commencement date is deemed to have been done or omitted to be done under the corresponding provision of that Chapter as restructured and renumbered by the *Amending Rule 2006*, as if that Rule had been in operation when the thing was done or omitted to be done.

**11.6.7 References to the old Chapter 6**

Unless the context otherwise requires, on and from the commencement date every reference to the old Chapter 6 in a document (however described) is deemed to be a reference to the renumbered Chapter 6 or the new Chapter 6A (as the case may be).

**11.6.8 References to provisions of the old Chapter 6**

Unless the context otherwise requires, on and from the commencement date every reference to a provision of the old Chapter 6 in a document (however described) is



deemed to be a reference to the corresponding provision of the renumbered Chapter 6 or the corresponding provision (if any) of the new Chapter 6A (as the case may be).

**11.6.9 Roll forward of regulatory asset base for first regulatory control period**

In making a *revenue determination* for the first *regulatory control period*, the value of the regulatory asset base at the beginning of the first *regulatory year* of that period calculated in accordance with clause S6A.2.1(f), may be adjusted having regard to an existing revenue determination and any other arrangements agreed between the *AER* and the *Transmission Network Service Provider*.

**11.6.10 Other adjustment carry-over mechanisms from current to first regulatory control period**

The *maximum allowed revenue* that a *Transmission Network Service Provider* may earn in any *regulatory year* of the first *regulatory control period* may be adjusted for any carry-over mechanisms provided for in the relevant existing revenue determination and in any other arrangements agreed between the *AER* and the *Transmission Network Service Provider* for the purposes of, and in accordance with, the existing revenue determination.

**11.6.11 Transition to new Chapter 6A: existing prescribed transmission services**

- (a) References to *prescribed transmission services* in the new Chapter 6A include a service provided by an asset used in connection with, or committed to be constructed for use in connection with, a *transmission system* as at 9 February 2006:
- (1) to the extent that the value of the asset is included in the regulatory asset base for that *transmission system* under an existing revenue determination in force at that time; or
  - (2) if the price for that service has not been negotiated under a negotiating framework established pursuant to old clause 6.5.9,
- and, but for this clause, that service would not otherwise be a *prescribed transmission service*.
- (b) Where a service is a *prescribed transmission service* by virtue of the operation of this clause, that service is taken not to be a *negotiated transmission service*.
- (c) For the purposes of this clause 11.6.11, an asset is, and is only, to be taken to be committed to be constructed if it satisfies the criteria which a project needs to satisfy to be a “committed project” for the purposes of the *regulatory test*.

## 11.6.12 Powerlink transitional provisions

### Definitions

- (a) In this clause 11.6.12:

**contingent project** means a project identified in the transitional revenue determination as a contingent project.

**Powerlink** means the Queensland Electricity Transmission Corporation Limited (ACN 078 849 233), trading as Powerlink Queensland .

**transitional regulatory control period** means the regulatory control period commencing on 1 July 2007 and ending on 30 June 2012.

**transitional revenue determination** means a final revenue determination by the *AER* for the Powerlink transmission network, in respect of the transitional regulatory control period.

**trigger** means the unique investment driver identified in the transitional revenue determination as a trigger for a contingent project.

### Scope and application

- (b) This clause 11.6.12:

- (1) applies only in respect of the Powerlink *transmission network* and applies only until 30 June 2012; and
- (2) prevails, to the extent of any inconsistency, over any other clause in the *Rules*.

### Transitional revenue determination

- (c) Except as provided in this clause 11.6.12, and despite any changes to the old Chapter 6:
- (1) the old Chapter 6 continues to apply in respect of the *AER* setting the revenue cap for the transitional regulatory control period for the Powerlink *transmission network*; and
  - (2) in setting the revenue cap for the transitional regulatory control period, the *AER* must substantially adhere to the Statement of Regulatory Principles including the *ex ante* approach to setting the revenue cap set out in the statement.
- (d) The *AER* must calculate the *weighted average cost of capital* for the transitional regulatory control period, in accordance with the values, methodologies or benchmarks in the new Chapter 6A, in respect of the following items:
- (1) the nominal risk free rate including the maturity period and source of the benchmark;
  - (2) the debt risk premium including the maturity period and source of the benchmark;

- (3) the equity beta;
  - (4) the market risk premium; and
  - (5) the ratio of the market value of debt as a proportion of the market value of equity and debt.
- (e) In calculating the *WACC* for the transitional regulatory control period, the *AER* must use an average gamma of 0.5.

**Contingent projects**

- (f) Where the trigger event identified in respect of a contingent project occurs prior to 30 June 2012, the *AER* must, in accordance with the transitional revenue determination:
- (1) determine:
    - (i) the amount of capital and incremental operating expenditure for that contingent project for each remaining regulatory year of the transitional regulatory control period, which the *AER* considers is reasonably required for the purpose of undertaking the contingent project;
    - (ii) the likely commencement and completion dates for the contingent project;
    - (iii) the incremental revenue which is likely to be earned by Powerlink in each remaining regulatory year of the transitional regulatory control period as a result of the contingent project being undertaken; and
    - (iv) the *maximum allowed revenue* for each regulatory year in the remainder of the transitional regulatory control period by adding the incremental revenue for that regulatory year; and
  - (2) calculate the estimate referred to in subparagraph (1)(iii):
    - (i) on the basis of the rate of return for Powerlink for the transitional regulatory control period in accordance with the transitional revenue determination; and
    - (ii) consistently with the manner in which depreciation is calculated under the transitional revenue determination; and
  - (3) amend the transitional revenue determination to apply for the remainder of the transitional regulatory control period in accordance with paragraph (g).
- (g) The *AER* may only vary the transitional revenue determination to the extent necessary:
- (1) to adjust the forecast capital expenditure for the transitional regulatory control period to accommodate the amount of additional capital expenditure determined under paragraph (f)(1)(i);

- (2) to adjust the forecast operating expenditure for the current regulatory control period to accommodate the amount of additional operating expenditure determined under paragraph (f)(1)(i); and
  - (3) to reflect the effect of any resultant increase in forecast capital expenditure and incremental operating expenditure on the maximum allowed revenue for each regulatory year in the remainder of the transitional regulatory control period.
- (h) An application for approval of a contingent project may only be made if the intended date for commencing the contingent project is during the transitional regulatory control period.
- (i) For the first *regulatory control period* after the transitional regulatory control period, the forecast of capital expenditure for that first *regulatory control period* must be determined by applying the provisions of clause 6A.6.7 of the new Chapter 6A, in respect of the capital expenditure for a contingent project, with such modifications as are necessary to properly apply clause 6A.6.7.

#### **Cost pass-through**

- (j) For the duration of the transitional regulatory control period:
- (1) subject to subparagraph (2), clause 6A.7.2 of the new Chapter 6A applies to a *network support event* under the transitional revenue determination;
  - (2) the process to apply to the calculation, presentation and approval of pass through resulting from a network support event is as set out in the transitional revenue determination; and
  - (3) in respect of any *positive change event* or *negative change event*, the new Chapter 6A applies, with any modifications that are necessary to apply the relevant provisions to the transitional revenue determination.

#### **Roll forward of regulatory asset base**

- (k) For the avoidance of doubt, in making a *revenue determination* for the first *regulatory control period* after the transitional regulatory control period, the value of the regulatory asset base at the beginning of the first *regulatory year* of that period calculated in accordance with clause S6A.2.1(f), may be adjusted having regard to the transitional revenue determination and any other arrangements agreed between the *AER* and Powerlink.

#### **Application of efficiency benefit sharing scheme**

- (l) The *efficiency benefit sharing scheme* in force under clause 6A.6.5 applies to Powerlink during the transitional regulatory control period.

#### **Power to re-open transitional revenue determination**

- (m) Clause 6A.7.1 applies to the transitional revenue determination, and a reference in the clause to:

- (1) “revenue determination” is taken to be a reference to the transitional revenue determination;
- (2) “regulatory control period” is taken to be a reference to the transitional regulatory control period;
- (3) “contingent project” has the meaning referred to in paragraph (a); and
- (4) “X Factor” has the same meaning as in the transitional revenue determination.

### 11.6.13 ElectraNet easements transitional provisions

- (a) In this clause 11.6.13:

**current regulatory control period** means the regulatory control period for ElectraNet commencing on 1 January 2003 and ending on 30 June 2008.

**Determination** means the South Australian Transmission Network Revenue Cap Decision of the ACCC dated 11 December 2002.

**easement** means easements referred to in the Determination.

- (b) Without limiting the operation of the new Chapter 6A, in establishing the opening regulatory asset base for ElectraNet for the regulatory control period subsequent to ElectraNet’s current regulatory control period, the *AER* may also consider adjustments to the regulatory asset base for ElectraNet that relate to easements, as agreed by letter dated 3 August 2004, between the ACCC and ElectraNet.

### 11.6.14 TransGrid contingent projects

- (a) In this clause 11.6.14:

**contingent project** means a project identified in the Determination as a contingent project.

**current regulatory control period** means the period 1 July 2004 to 30 June 2009.

**Determination** means the “Final Decision, NSW and ACT Transmission Network Revenue Cap TransGrid 2004-05 to 2008-09” dated 27 April 2005 determined by the ACCC pursuant to clause 6.2.4(b) of the National Electricity Code.

**TransGrid** means the energy services corporation constituted under section 6A of the Energy Services Corporations Act 1995 (NSW) and specified in Part 1A of Schedule 1 to that Act.

- (b) For the purposes of the application of clause 11.6.2(a) to the Determination, a reference to the old Chapter 6 is a reference to the old Chapter 6 as modified by rule 8A.1.
- (c) For the first *regulatory control period* after the current regulatory control period, the forecast of capital expenditure for TransGrid for that first *regulatory control period* must be determined by applying the provisions of

clause 6A.6.7 in respect of the capital expenditure for a contingent project, with such modifications as are necessary to properly apply clause 6A.6.7.

#### **11.6.15 Transmission determination includes existing revenue determinations**

The definition of a *transmission determination* may, where the context so requires, include a determination (or substituted determination) made, or deemed to be made, by the *AER* or the *ACCC* prior to the commencement date.

#### **11.6.16 References to regulatory control period**

A reference to a *regulatory control period* may, where the context so requires, include a period during which a revenue cap applied by virtue of a determination (or substituted determination) made, or deemed to be made, by the *AER* or the *ACCC* prior to the commencement date.

#### **11.6.17 Consultation procedure for first proposed guidelines**

(a) In this clause 11.6.17:

**guideline** means:

- (1) the *post-tax revenue model* referred to in rule 6A.5.2;
  - (2) the *roll forward model* referred to in rule 6A.6.1;
  - (3) an *efficiency benefit sharing scheme* referred to in rule 6A.6.5;
  - (4) a *service target performance incentive scheme* referred to in rule 6A.7.4;
  - (5) *submission guidelines* referred to in rule 6A.10.2; and
  - (6) *Cost Allocation Guidelines* referred to in rule 6A.19.3.
- (b) The *AER* must develop and *publish* the first proposed guidelines on or before 31 January 2007, and may carry out consultation in the preparation of those proposed guidelines as the *AER* considers appropriate.
- (c) Each proposed guideline must be *published* in accordance with the requirements of rule 6A.20(b), including an explanatory statement and an invitation for written submissions.
- (d) The invitation for written submissions for the proposed guidelines must allow no less than 60 *business days* for the making of submissions.
- (e) The *AER* may *publish* papers and hold conferences or information sessions in relation to the proposed guidelines as provided by rule 6A.20(d).
- (f) Rule 6A.20(e)-(f) applies to the publication of the final decision of the *AER* in relation to the first guidelines, which must be published under rule 6A.20 on or before 30 September 2007.

**11.6.18 Reliance on proposed guidelines for SP AusNet, VENCORP and ElectraNet**

- (a) In this clause 11.6.18:
- guideline** has the same meaning as in clause 11.6.17.
- proposed guideline** means a proposed guideline published under clause 11.6.17.
- relevant provider** means SP AusNet, VENCORP or ElectraNet.
- 2008 determination** means a transmission determination to be made in 2008 for a relevant provider.
- (b) For the purposes of making a 2008 determination for the regulatory control period to be covered by a 2008 determination, anything that must be done in accordance with a guideline must instead be done in accordance with the corresponding proposed guideline.
- (c) Unless sooner revoked, a proposed guideline ceases to have effect in relation to a relevant provider at the end of the regulatory control period covered by a 2008 determination applying to the provider. For the avoidance of doubt, a proposed guideline does not apply to or in respect of the making of a subsequent transmission determination.
- (d) For the purposes of making a 2008 determination for the regulatory control period to be covered by a 2008 determination, a relevant provider is taken to have complied with a requirement to comply with a *Cost Allocation Methodology* under the new Chapter 6A if the AER is satisfied that the relevant provider has complied with the relevant proposed guideline for cost allocation referred to in clause 11.6.17(a)(6), but only until the AER has approved a *Cost Allocation Methodology* for that provider under clause 6A.19.4.

**11.6.19 EnergyAustralia transitional provisions**

- (a) In this clause 11.6.19:
- contingent project** means a project approved by the ACCC and identified in the Determination as a contingent project.
- current regulatory control period** means the period 1 July 2004 to 30 June 2009.
- Determination** means the “Final Decision, NSW and ACT Transmission Network Revenue Cap EnergyAustralia 2004-05 to 2008-09”.
- EnergyAustralia** means the energy services corporation constituted under section 7 of the Energy Services Corporations Act 1995 (NSW) and specified in Part 2 of Schedule 1 to that Act.
- maximum allowed revenue** means the maximum allowed revenue in the Determination.

**trigger event** means an event identified as a trigger in Attachment A of the Determination in respect of a contingent project.

**Application of Chapter 6A to Determination**

- (b) Subject to paragraph (c), clauses 6A.7.1, 6A.7.2 and 6A.7.3 apply to the Determination.
- (c) In applying clause 6A.7.1 to the Determination, a reference in the clause to:
  - (1) “revenue determination” is taken to be a reference to the Determination;
  - (2) “regulatory control period” is taken to be a reference to the current regulatory control period;
  - (3) “contingent project” has the meaning referred to in paragraph (a); and
  - (4) “X Factor” has the same meaning as in the Determination.

**Treatment of contingent projects**

- (d) Where the trigger event identified in respect of a contingent project occurs prior to 1 July 2009, the *AER* must, in accordance with the Determination:
  - (1) determine:
    - (i) the total capital expenditure which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (ii) the forecast capital and incremental operating expenditure for that contingent project for each remaining regulatory year of the current regulatory control period, which the *AER* considers is reasonably required for the purpose of undertaking the contingent project in accordance with Appendix A of the Determination;
    - (iii) the likely commencement and completion dates for the contingent project;
    - (iv) the incremental revenue which is likely to be earned by EnergyAustralia in each remaining regulatory year of the current regulatory control period as a result of the contingent project being undertaken; and
    - (v) the maximum allowed revenue for each regulatory year in the remainder of the current regulatory control period by adding the incremental revenue for that regulatory year;
  - (2) calculate the estimate referred to in subparagraph (1)(iv) in accordance with the Determination, including:
    - (i) on the basis of the rate of return for EnergyAustralia for the current regulatory control period; and



- (ii) consistently with the manner in which depreciation is calculated under the Determination; and
  - (3) vary the Determination to apply for the remainder of the current regulatory control period in accordance with paragraph (e).
- (e) The *AER* may only vary the Determination to the extent necessary:
  - (1) to adjust the forecast capital expenditure for the current regulatory control period to accommodate the amount of additional capital expenditure determined under paragraph (d)(1)(ii); and
  - (2) to adjust the forecast operating expenditure for the current regulatory control period to accommodate the amount of additional operating expenditure determined under paragraph (d)(1)(ii); and
  - (3) to reflect the effect of any resultant increase in forecast capital expenditure and incremental operating expenditure on the maximum allowed revenue for each regulatory year in the remainder of the current regulatory control period.
- (f) The intended date for commencing the contingent project must be during the current regulatory control period.
- (g) For the first *regulatory control period* after the current regulatory control period, the forecast of capital expenditure for EnergyAustralia for that first *regulatory control period* must be determined by applying the provisions of clause 6A.6.7 in respect of the capital expenditure for a contingent project, with such modifications as are necessary to properly apply clause 6A.6.7.

## 11.6.20 Basslink transitional provisions

### Definitions

- (a) In this clause 11.6.20:

**Basslink** has the meaning provided in the *Electricity Supply Industry Act 1995* of Tasmania, and means the interconnection between the electricity grids of the States of Tasmania and Victoria by means of:

- (1) a high voltage, direct current, submarine cable across Bass Strait;
- (2) converter stations in those States;
- (3) direct current connecting lines to those converter stations;
- (4) alternating current transmission connections to the transmission networks of those States; and
- (5) related infrastructure.

**previous regulatory approach** means the methodologies, objectives and principles for determination of a regulatory asset base applied in the previous regulatory determinations.

**previous regulatory determinations** means the decision (including the reasons for decision) made under clause 2.5.2(c) of the National Electricity Code or clause 2.5.2(c) of the *Rules* (as the case may be):

- (1) by the *ACCC*, entitled the “Murraylink Transmission Company Application for Conversion and Maximum Allowable Revenue” dated 1 October 2003; and
- (2) by the *AER*, entitled “Directlink Joint Ventures’ Application for Conversion and Revenue Cap” dated 3 March 2006.

### **Application**

- (b) Where, after the commencement date, a service provided by means of, or in connection with, the Basslink *transmission system* ceases to be classified as a *market network service*:
  - (1) paragraph (c) applies to that service to the exclusion of clause 2.5.2(c); and
  - (2) paragraphs (d),(e),(f) and (g) apply to that service to the exclusion of clause S6A.2.1(e)(1) and (2).
- (c) If, after the commencement date, a *network service* provided by means of, or in connection with, the Basslink *transmission system* ceases to be classified as a *market network service*, it may at the discretion of the *AER* be determined to be a *prescribed transmission service*, in which case the relevant *total revenue cap* may be adjusted in accordance with Chapter 6A and this clause 11.6.20 to include to an appropriate extent the relevant *network* elements which provide those *network services*.
- (d) Where services are determined to be *prescribed transmission services* as referred to in paragraph (c), the value of the regulatory asset base, as at the beginning of the first *regulatory year* of the first *regulatory control period* for which those *prescribed transmission services* are to be regulated under a *revenue determination*, is the amount that is determined by the *AER* in accordance with paragraphs (e), (f) and (g).
- (e) Subject to paragraph (f), the *AER* must determine the value of the regulatory asset base for the Basslink *transmission system* for the purposes of paragraph (d) by applying the previous regulatory approach to the circumstances of that *transmission system*.
- (f) In the event of an inconsistency between the previous regulatory approach adopted in each of the previous regulatory determinations, the approach adopted in a decision of the *AER* regarding the Directlink *transmission system* prevails over the approach adopted in the decision of the *ACCC* regarding the Murraylink *transmission system* to the extent of the inconsistency.
- (g) Without limiting paragraph (e), the *AER* must, when exercising any discretion in relation to the application of paragraph (e) above:

- (1) have regard to the prudent and efficient value of the assets that are used by the relevant *Transmission Network Service Provider* to provide those *prescribed transmission services* (but only to the extent that those assets are used to provide such services); and
- (2) for this purpose, determine that value having regard to the matters referred to in clause S6A.2.2.

### **11.6.21 SPI Powernet savings and transitional provision**

#### **Definitions**

- (a) In this clause 11.6.21, **Regulated owner** and **SPI PowerNet** both have the meaning provided in clause 9.3.1(2) of the *Rules*.

#### **Transition to new Chapter 6A: existing prescribed transmission services**

- (b) Notwithstanding clause 11.5.11, references to *prescribed transmission services* in the new Chapter 6A include a service provided by an asset used in connection with, or committed to be constructed for use in connection with, a *transmission system* as at 9 February 2006, where that asset is the subject of an agreement between SPI PowerNet and any of:
  - (1) VENCORP;
  - (2) a *Distributor*;
  - (3) a Regulated owner;
  - (4) a *Generator*; or
  - (5) a *Market Network Service Provider*,and:
  - (6) the agreement provides or contemplates that following an interim period the relevant asset will become subject to regulation under a revenue determination applicable to SPI PowerNet; and
  - (7) in the case of an agreement with a *Generator* or a *Market Network Service Provider*, the service the subject of the agreement is for *connection assets* provided on a non-contestable basis.

#### **Method of adjustment of value of regulatory asset base**

- (c) For the avoidance of doubt, in adjusting the previous value of the regulatory asset base for SPI PowerNet's *transmission system* as required by clause S6A.2.1(f), the previous value of the regulatory asset base must be increased by the amount of capital expenditure specified in, or that forms the basis of, agreements pursuant to which SPI PowerNet constructed assets during the

previous regulatory control period used to provide *prescribed transmission services*, adjusted for outturn inflation and depreciation in accordance with the terms of those agreements.

**11.6.22 Interim arrangements pricing-related information**

- (a) Clause 6.2.5(a1) as in force immediately before the commencement date continues to apply during the current regulatory control period.
  - (b) The *information guidelines* may, in addition to the matter referred to in clause 6A.17.2(e), require the inclusion in the certified annual statements of:
    - (1) information on the amount of each instance, during the relevant reporting period, of any reduction in the prices payable by a *Transmission Customer* for *prescribed transmission services* provided by the *Transmission Network Service Provider*;
    - (2) information on each instance, during the relevant reporting period, of a reduction in the prices payable by a *Transmission Customer* for *prescribed transmission use of system services* or *prescribed common transmission services* (or both) that were recovered from other *Transmission Customers* for *prescribed transmission use of system services* or *prescribed common transmission services*; and
    - (3) information to substantiate any claim by the *Transmission Network Service Provider* that the information provided to the *AER* with respect to reductions in the prices payable by a *Transmission Customer* for the relevant *prescribed transmission services* under subparagraphs (2) or (3) is confidential information.
-