
NGF Proposed Rule Appendix 2 Explanation of Clauses for Draft Rule

The proposed draft clauses for the Rule requested by the NGF are set out in Appendix 1, comprising amendments (shown in marked-up format) to clauses 6A.19.2, 6A.19.4, 6A.21.2, S6A.2.3 and 11.6.11 of the Rules. The proposed amendments address the issues arising from the current Rules that have been identified in the NGF's submission. An explanation of each of the draft clauses in Appendix 1 is provided below.

1. Clauses 6A.19.2 and 6A.21.2

To clarify that the Transmission Ring-Fencing Guidelines do not affect cost allocation as between transmission services (as opposed to cost allocation as between transmission services and other services), the following amendments are proposed:

- Deletion of clause 6A.19.2(6) – this paragraph suggests that the Transmission Ring-Fencing Guidelines may deal with the allocation of costs as between categories of transmission services. However, it is considered that such cost allocation is more properly the exclusive province of the Cost Allocation Principles.
- Amendment to clause 6A.21.2(a) to correct minor typographical errors.
- Amendment to clause 6A.21.2(b)(1)(iii) – this clarifies that the Transmission Ring-Fencing Guidelines should be confined to prescribing cost allocation principles or methodologies as between transmission services and other services, rather than as between categories of transmission services (eg. prescribed and negotiated transmission services).
- New clause 6A.21.2(e) - this confirms that cost allocation as between transmission services is not a function of the Transmission Ring-Fencing Guidelines.

2. Clause 6A.19.4

A minor amendment is proposed to clause 6A.19.4(b) to act as a pointer to the provisions in clause 11.6.11 (discussed below). Because clause 11.6.11 will have an ongoing effect in respect of the allocation of costs to assets that were used or committed for construction as at 9 February 2006, it is considered sensible to draw attention to the requirements of clause 11.6.11 in the context of each TNSP's cost allocation methodology as it is through these methodologies that each TNSP will be required to give effect to clause 11.6.11.

3. Clause S6A.2.3

A new paragraph (ab) is proposed. This paragraph prevents the removal of the value of an asset from the RAB during a regulatory reset in circumstances where:

- there has been a reconfiguration of the transmission system;
- that reconfiguration causes relevant conditions for removal from the RAB in clause S6A.2.3(a) to be met; and
- the affected Transmission Network User(s) have not requested or consented to the reconfiguration or have not unreasonably refused or failed to consent to the removal of the asset from the RAB.

Without limiting the circumstances that might render a Transmission Network User's refusal or failure to consent to the removal of an asset from the RAB reasonable or unreasonable, the new paragraph (ab) deems such a refusal or failure not to be unreasonable if the removal of the value of the asset from the RAB and the consequent application of the Transmission Network Service Provider's Negotiated Transmission Service Criteria would be likely to result in an increase in service charges for that user that is greater than 5%. This threshold is proposed as it is generally accepted for accounting purposes to represent a material impact.

4. Chapter 11.6.11

4.1 Clause 11.6.11(aa) to (c)

Proposed new clause 11.6.11(aa) and the amendments to clause 11.6.11(a) are intended to clarify what the NGF understands to have been the intent of the existing clause 11.6.11. The proposed drafting:

- introduces separate definitions of 'eligible existing assets' and 'eligible committed assets' (paragraph (aa));
- provides that, while the relevant transmission assets themselves must have been in use or committed as at 9 February 2006, the services to be grandfathered are those which were being provided when the first of the 2006 Economic Regulation Rules came into effect (16 November 2006) (paragraph (a)(4));
- recognises that an asset that was committed to be constructed as at 9 February 2006 might not actually have been providing grandfathered services by 16 November 2006, and so explicitly grandfathers the services that will be provided by that asset when it comes into operation (paragraph (a)(1)(ii));
- recognises that, for so long as the value of a qualifying asset is included in the RAB (whether or not under a pre-existing revenue determination) a connection service provided by that asset should continue to be treated as a grandfathered service (paragraph (a)(2)); and
- recognises that, for so long as the price for the service is not negotiated, a connection service provided by a qualifying asset should continue to be treated as a grandfathered service (paragraph (a)(3)).

Existing paragraph (c) has been deleted because the substance of that paragraph is now included in paragraph (aa).

4.2 Clauses 11.6.11(d) and (e)

Proposed new clause 11.6.11(d) addresses the approach to cost allocation which is to be adopted in respect of services that have been grandfathered as prescribed entry or exit services under paragraph (a). The effect of paragraph (d) is to preserve the cost allocation methodology in relation to entry and exit services that existed before Chapter 6A came into effect. It does this by limiting the costs of assets that may be allocated to prescribed entry or exit services to the costs of those assets which were fully dedicated to the provision of those services at the relevant connection point as at 16 November 2006.

Proposed new clause 11.6.11(e) deals with any residual portion of the AARR that may be left unallocated as a result of the application of clause 11.6.11(d). This ensures that the AARR is fully allocated as required by clause 6A.23.2(c)(1). Paragraph (e) provides that any such costs that remain unallocated are to be allocated first to prescribed TUOS services (up to the stand-alone amount) and second to prescribed common transmission services.