

RULE CHANGE

Australian Energy Market Commission

FINAL RULE DETERMINATION

National Electricity Amendment (Regulatory Investment Test for Transmission) Rule 2009

Rule Proponent(s)

Ministerial Council on Energy

Commissioners

Tamblyn
Ryan
Woodward

25 June 2009

A handwritten signature in black ink, appearing to read 'John Tamblyn', is positioned above the printed name and title of the signatory.

JOHN TAMBLYN
Chairman

For and on behalf of the Australian Energy Market Commission

Inquiries

The Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

E: aemc@aemc.gov.au

T: (02) 8296 7800

F: (02) 8296 7899

Citation

AEMC 2009, *Regulatory Investment Test for Transmission*, Final Rule Determination, 25 June, 2009, Sydney

About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy, established the Australian Energy Market Commission (AEMC) in July 2005 to be the Rule maker for national energy markets. The AEMC is currently responsible for Rules and policy advice covering the National Electricity Market. It is a statutory authority. Our key responsibilities are to consider Rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council as requested, or on AEMC initiative.

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

Contents

Contents	iii
Abbreviations	iv
Summary	v
1 MCE's Rule Change Proposal	1
1.1 Proposal	1
1.2 Objective of the Rule Change Proposal	1
1.3 Background	2
1.4 Fast track Rule change process	3
1.5 Publication of draft Rule determination and draft Rule	3
1.6 Consultation on draft Rule determination	4
2 Rule Determination	5
2.1 Commission's Rule determination	5
2.2 Commission's considerations	5
2.3 Differences between the proposed Rule and the Draft Rule	7
2.4 Differences between the Draft Rule and the Rule as Made	7
2.5 Commission's power to make the Rule	9
3 Commission's assessment approach	11
3.1 Methodology	11
3.2 Rule making test and the National Electricity Objective	12
3.3 Revenue and pricing principles	13
4 Context for proposed RIT-T Rules	15
4.1 Description of proposed RIT-T Rules	15
4.2 Reasoning for RIT-T	16
4.3 Outcomes of NTP Final Report regarding RIT-T and their continued relevance	21
5 Assessment of proposed RIT-T Rules	23
5.1 Consistency of proposed RIT-T Rules with the NTP Final Report	23
5.2 Application of the proposed RIT-T Rules and proposed modifications	31
5.3 Commission's assessment	34
6 Assessment of Draft Rule and Rule as Made	39
6.1 Issues arising out of consultation	39
6.2 Civil penalty provisions	50
6.3 Commission's assessment	51
Appendix A Regulatory Investment Test for Transmission (RIT-T) Steps	55
Appendix B Submissions and responses	57

Abbreviations

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AEMOT	Australian Energy Market Operator Transitional
AER	Australian Energy Regulator
Commission	see AEMC
CPI	Consumer Price Index
DNSP	Distribution Network Service Provider
MCE	Ministerial Council on Energy
NTNDP	National Transmission Network Development Plan
NEL	National Electricity Law
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NEO	National Electricity Objective
NTP Review	National Transmission Planning Arrangements Review
RIT-T	Regulatory Investment Test for Transmission
Rules	National Electricity Rules
SCO	Standing Committee of Officials
TNSP	Transmission Network Service Provider
TUoS	Transmission User of Service

Summary

The Australian Energy Market Commission (Commission) received a Rule Change request from the Ministerial Council on Energy (MCE) seeking to implement a new regulatory investment test for transmission (Rule Change Proposal).

The Rule Change Proposal arose out of the Commission's National Transmission Planning Arrangements Review (NTP Review). One of the outcomes of that Review was a set of proposed Rules to implement a new regulatory investment test for transmission (RIT-T) which would displace the current Regulatory Test. In the Rule Change Proposal the MCE requests that the Commission make the proposed RIT-T Rules that were included in the Commission's final report of the NTP Review (NTP Final Report)

The main arguments proposed by the MCE in support of the proposed RIT-T Rules were:

- the amalgamation of the reliability and market benefits limbs of the Regulatory Test would optimise the decision making process in relation to transmission planning and also promote efficiency;
- increased consultation on the options that are available to address any given transmission issue and earlier consultation in the planning process taken together should decrease efficient options being overlooked; and
- application of more rigor and greater consistency to the analysis of costs and benefits before transmission investment is undertaken is likely to promote greater consistency, transparency and predictability to transmission planning decision making.

The Commission is of the view that the proposed RIT-T Rules, subject to some modification, do meet the statutory Rule making test. The Rule as Made differs from the proposed RIT-T Rules in some respects. Modifications have been made:

- to improve the application of the proposed Rules; and
- to incorporate issues raised by stakeholders in response to the draft Rule determination and draft Rule published on 2 April 2009,

but they do not affect the rationale and intent of the proposed RIT-T Rules which is still reflected in the Rule as Made.

This page has been intentionally left blank

1 MCE's Rule Change Proposal

1.1 Proposal

The Australian Energy Market Commission (Commission) received a Rule change request from the Ministerial Council on Energy (MCE) seeking to implement a new regulatory investment test for transmission (Rule Change Proposal)¹.

The Rule Change Proposal arose out of the Commission's National Transmission Planning Arrangements Review (NTP Review). One of the outcomes of that Review was a set of proposed Rules to implement a new regulatory investment test for transmission (RIT-T) which would displace the current Regulatory Test. In the Rule Change Proposal the MCE requested that the Commission make the proposed RIT-T Rules that were included in the Commission's final report of the NTP Review (NTP Final Report).²

The MCE requested that the Commission fast track the Rule Change Proposal in accordance with section 96A of the National Electricity Law (NEL), as the proposed RIT-T Rules were the subject of public consultation as part of the NTP Review, and were included in the NTP Final Report.³

The Rule Change Proposal also included another related Rule change request from the MCE requesting the Commission to make a Rule to implement a National Transmission Statement. This was considered separately by the Commission.⁴

1.2 Objective of the Rule Change Proposal

In the Rule Change Proposal the MCE stated that the RIT-T would provide a single framework to apply to all transmission investment and remove the current distinction between reliability driven projects and projects motivated by the delivery of market benefits.⁵

The purpose of the RIT-T would be to identify the transmission investment option which maximises the net economic benefits and, where applicable, meets the relevant jurisdictional Rule based reliability standards. The RIT-T framework would require consultation on the range of credible options for any given transmission issue, and

¹ Ministerial Council on Energy, *MCE Response on AEMC Final Report on the National Transmission Planning Arrangements*, 5 November 2008 (Rule Change Proposal, Part 1) and Ministerial Council on Energy Standing Committee of Officials, *MCE Rule Change requests – National Transmission Statement and Regulatory Investment Test for Transmission*, 16 February 2009 (Rule Change Proposal, Part 2) (together the Rule Change Proposal).

² AEMC 2008, *National Transmission Planning Arrangements*, Final Report to MCE, 30 June 2008, Sydney (NTP Final Report).

³ Rule Change Proposal, Part 1, p 1, 14.

⁴ AEMC 2009, *National Transmission Statement, Rule Determination*, 31 March 2009, Sydney

⁵ Rule Change Proposal, Part 2, pp 3 – 4.

consultation on a comparative analysis of costs and benefits using a standardised list of classes of costs and benefits.⁶

The MCE also referred to the need for Rules relating to transitional arrangements supporting the RIT-T:

- the current Regulatory Test would continue to apply to any project assessment analysis which commenced prior to the commencement of any Rules to implement the RIT-T; and
- the Australian Energy Regulator (AER) would be given 12 months to develop and publish the new test and related guidelines.⁷

1.3 Background

As part of the reform process initiated by Council of Australia Governments, and in response to the Energy Reform Implementation Group recommendations on achieving a fully national and efficient energy market, the MCE requested that the Commission conduct the NTP Review⁸. The NTP Review looked at the implementation of a strengthened national electricity transmission planning function.⁹

The MCE requested that the Commission develop a revised transmission network planning and consultation process to replace the current 'Regulatory Test' with an assessment process that amalgamates the reliability and market benefits criteria of the current Test and expands the definition of market benefits to include national benefits. The revised transmission planning and consultation process ultimately proposed by the Commission was termed the 'regulatory investment test for transmission or 'RIT-T' in the NTP Final Report.¹⁰

The Commission submitted the NTP Final Report to the MCE on 30 June 2008 (as specified in the Terms of Reference). On 22 July 2008 the Commission published the NTP Final Report following a request from the MCE that the Report be made publicly available.

Other recommendations from the NTP Final Report are being progressed via other means. In particular, the proposed national transmission planning function will be implemented through the MCE's Australian Energy Market Operator (AEMO) establishment process.¹¹

⁶ Rule Change Proposal, Part 2, pp 3- 4.

⁷ Rule Change Proposal, Part 2, pp 3- 4.

⁸ For more information on the background to the NTP Review refer to the COAG Communique, 13 April 2007. In that Communique COAG responds to Energy Reform Implementation Group, *Energy Reform: The Way Forward for Australia*, January 2007.

⁹ The NTP Review was carried out under Section 41 of the National Electricity Law.

¹⁰ Refer to chapter 4 of the NTP Final Report.

¹¹ Rule Change Proposal, Part 1, p 16.

1.4 Fast track Rule change process

On 26 February 2009 the Commission published a notice under section 95 of the NEL advising of its intention to commence the Rule change process in respect of the Rule Change Proposal.

The Commission has decided to fast-track the Rule Change Proposal under section 96A of the NEL and, accordingly, there has been no first round consultation on the Rule Change Proposal. This decision reflected the Commission's opinion on the following matters:

- the MCE has made a request for the making of a Rule on the basis of such a recommendation contained in a MCE directed review; ie, the proposed RIT-T Rule was included in the NTP Final Report;
- the Rule change request reflects or is consistent with the relevant recommendation contained in the MCE directed review; ie, the Rule Change Proposal is consistent with the Commission's recommendations contained in the NTP Report; and
- there was adequate consultation with the public by the AEMC on the content of the relevant recommendation. The issue of the RIT-T was consulted on as part of the NTP Review. The consultation is outlined below.¹²

The Commission consulted extensively with market participants and other stakeholders to inform the preparation of the RIT-T recommendations as part of the NTP Review. This was a key requirement specified in the MCE Terms of Reference. The process included:

- Scoping Paper published on 3 August 2007;
- Issues Paper published on 9 November 2007;
- Discussion Paper published on 28 March 2008;
- Public Forum held in Melbourne on 2 April 2008; and
- Draft Report published on 2 May 2008.

The Commission also held a number of briefing sessions and bilateral meetings with stakeholders. In developing its RIT-T recommendations, the Commission also sought advice from Frontier Economics.

1.5 Publication of draft Rule determination and draft Rule

On 2 April 2009 the Commission published a draft Rule determination in relation to the Rule Change Proposal (Draft Rule Determination) including a draft Rule (Draft Rule).¹³

¹² Refer to sections 96A(1)(b) and 96A(2)(b) of the NEL.

1.6 Consultation on draft Rule determination

The Commission invited submissions on the Draft Rule Determination. When the period for submissions closed on 15 May 2009 four submissions had been received from:

- Grid Australia;¹⁴
- Energex;¹⁵
- the Australian Energy Market Operator Transitional (AEMOT); and¹⁶
- the AER.¹⁷

A supplementary submission was received from the AER dated 9 June 2009.¹⁸

Each of the submissions from the AER included an attachment prepared by Frontier Economics.

No interested person or body requested that the Commission hold a hearing in relation to the Draft Rule Determination.

¹³ AEMC 2009, *Regulatory Investment Test for Transmission*, Draft Rule Determination, 2 April 2009, Sydney

¹⁴ Grid Australia 2009, Draft Rule Determination: National Electricity Amendment (Regulatory Investment Test for Transmission), 13 May 2009 (Grid Australia submission)

¹⁵ Energex 2009, Draft Rule Determination: Regulatory Investment Test for Transmission (ERC0077), 15 May 2009 (Energex submission)

¹⁶ AEMO Transitional 2009, AEMO Response to the Draft Rule Determination for the Regulatory Investment Test for Transmission, 15 May 2009 (AEMOT Submission)

¹⁷ AER 2009, National Electricity Amendment (Regulatory Investment Test for Transmission) Rule 2009 – Response to AEMC draft rule determination, 15 May 2009 (AER submission)

¹⁸ AER 2009, National Electricity Amendment (Regulatory Investment Test for Transmission) Rule 2009 – Response to AEMC draft rule determination, 15 May 2009 (AER supplementary submission)

2 Rule Determination

2.1 Commission's Rule determination

In accordance with section 102 of the NEL, the Commission has determined to make and publish this Rule determination. In accordance with section 103 of the NEL the Commission has made the *National Electricity Amendment (Regulatory Investment Test for Transmission) Rule 2009 No. [15]* (Rule as Made).

The Rule as Made will commence operation on 1 July 2009.

The Rule as Made, which is different from the Rules proposed by the MCE (referred to as the proposed RIT-T Rules) and the Draft Rule, is published with this Rule determination.¹⁹

2.2 Commission's considerations

This Rule determination sets out the Commission's reasons for making the Rule as Made. In making this Rule determination, the Commission has taken into account:

- the Commission's powers under the NEL to make the Rule;
- the Rule Change Proposal (including the MCE's response to the NTP Final Report) and the proposed RIT-T Rules;
- the NTP Final Report and the draft report for the NTP Review (NTP Draft Report);²⁰
- the revenue and pricing principles;²¹
- submissions received during consultation on the Draft Rule Determination and Draft Rule;
- a report prepared by NERA as part of the Commission's review of the role of demand side participation in the National Electricity Market;²² and

¹⁹ Section 103(3) of the NEL provides that the Rule as Made need not be the same as the draft of the proposed Rule relating to the section 95 notice or the draft of the Rule contained in a draft Rule determination.

²⁰ AEMC 2008, *National Transmission Planning Arrangements*, Draft Report, 2 May 2008, Sydney (Draft NTP Report)

²¹ Under section 88B of the NEL the Commission is required to take into account the revenue and pricing principles set out in section 7A in certain cases. The revenue and pricing principles must be taken into account with respect to matters or things specified in items 15-24 and 25 – 26J of Schedule 1 to the NEL.

- the Commission’s analysis on the ways in which the proposed Rule will, or is likely to contribute to the National Electricity Objective (NEO) so that the statutory Rule making test is satisfied.

There are no MCE Statements of Policy Principle relevant to the Rule Change Proposal.

For the reasons set out in the following chapters, the Commission has determined that the Rule as Made, like the Draft Rule, satisfies the Rule making test. The Commission is satisfied that the Rule as Made will or is likely to contribute to the achievement of the NEO, taking into account the revenue and pricing principles. The Rule as Made will promote the efficient investment in electricity services for the long term interests of consumers of electricity for the same reasons given for the Draft Rule. They are as follows:

- the amalgamation of the reliability and market benefits limbs of the Regulatory Test will or is likely to optimise the decision making process in relation to transmission planning by promoting dynamic and allocative efficiency. By including the assessment of market benefits, the RIT-T should promote more efficient investment over time;
- greater prescription of market benefits and costs, and how they should be assessed, should improve the consistency and transparency across transmission investment assessment and should, over time, promote more efficient decision making;
- requiring a project specification consultation report should improve the transparency and application of the RIT-T which will, or is likely to, promote more efficient outcomes over time;
- a substantial increase in the amount of consultation undertaken should unearth a greater number of efficient investment options and therefore lead to more efficient outcomes overtime; and
- exemptions in certain cases from the project assessment draft report stage promotes the efficient use of resources where appropriate, thus reducing the regulatory burden faced by TNSPs and as a result promotes good regulatory practice.

The Rule as Made is also consistent with the revenue and pricing principles because, through greater consultation and more prescription of the costs and benefits to be assessed, the transmission planning process should identify more efficient investment and contribute to providing a reasonable opportunity to recover at least efficient costs. The Rule as Made should also address the risk of the potential for under and over investment by the transmission network service provider (TNSP) and the potential for under or over utilisation of the transmission network.

²² NERA 2008, *Stage 1 Final Report for the Review of the role of demand side participation in the National Electricity Market* (NERA Report)

2.3 Differences between the proposed Rule and the Draft Rule

While adopting the substance of the proposed RIT-T Rules, the Draft Rule differed from the proposed RIT-T Rules in some respects. Some modifications were made to improve the application of the proposed Rules but they did not affect the rationale and intent of the proposed RIT-T Rules which was still reflected in the Draft Rule. Some examples of the changes that were made are as follows:

- amendments were made to certain definitions, moving the substance of the definition into the body of the Rules, rather than including the substance in chapter 10 of the Rules;
- the transitional arrangements were amended to ensure that the current procedures remain operational until the RIT-T commences;
- clarification that the Regulatory Test will still apply to transmission investment which supports the distribution network;
- the definition of ‘transmission investment’ was not included in the Draft Rule; and
- the definition of ‘preferred option’ was amended to clarify that investments that tend to meet relevant jurisdictional Rule based reliability requirements may have negative net economic benefits.

Other changes were made which were of a consequential, minor drafting nature.

2.4 Differences between the Draft Rule and the Rule as Made

The Rule as Made is reflective of the Draft Rule. A number of drafting changes have been made to improve the clarity and application of the Rule as Made and to ensure that it effectively implements the policy intent. These changes have been made following the receipt of drafting suggestions in submissions from stakeholders and the Commission’s own review and analysis of the Draft Rule.

The most significant changes relate to the following provisions:

- Clause 5.6.5B(b) has been clarified to ensure that the RIT-T is a single test that replaces the two limbs of the current Regulatory Test for relevant transmission network investment. The RIT-T is to identify the credible option that maximises the present value of net economic benefit to all those who produce, consume and transport electricity in the NEM.
- The Rule as Made recognises that where the identified need is for reliability corrective action, the preferred option under the RIT T may have a net economic cost. To ensure the RIT T reflects this possibility, clause 5.6.5B(c)(12) has been included since the Draft Rule.
- The Draft Rule’s reference to “*power system security and reliability standards*” has been removed and the Rule as Made more directly refers to corrective action to address the technical “*limitation*” problems notified under clause 5.6.2(e)(2).

- Clauses 5.6.2 and 5.6.5A and amendments to the definition of “new network investment” now clarify the scope of the current Regulatory Test’s application to proposed investment by a TNSP. A TNSP’s proposed investment for corrective action to address technical limitations for a distribution network and notified under clause 5.6.2(e)(2) will be subject to the Regulatory Test. Under the regulatory test, the proposed corrective action may involve a network or non-network solution.
- The definition for “new network investment” has been amended to retain the existing lowest cost threshold for transmission investment for relevant distribution related purposes which is subject to the regulatory test. That cost threshold will be included in the AER’s reviews of cost thresholds under clause 5.6.5E.
- Clauses 5.6.5B and 5.6.5C now clarify the scope of the RIT-T’s application with the assistance of a new definition - “reliability corrective action”. This refers to investment by a TNSP in respect of its transmission network for the purpose of meeting the service standards linked to the technical requirements of schedule 5.1 of the Rules or in applicable regulatory instruments (as defined in Chapter 10 of the Rules). This new definition removes the Draft Rule’s reference to “*reliability augmentation*” and covers network and non-network solutions. The meaning of the new definition is based on the second limb of the current Regulatory Test to minimise any uncertainty for a TNSP on applying the RIT T in the context of meeting reliability obligations.
- Procedural and timing requirements in clauses 5.6.5B, 5.6.5C, 5.6.5D, 5.6.6, 5.6.6A are now clarified to provide greater certainty in the RIT-T’s processes for all relevant stakeholders. These include the following clarifications:
 - ... amendments to the RIT T or related AER guidelines will not apply to current applications of the RIT T (clause 5.6.5B(j));
 - ... a TNSP and AER may only agree in writing on relevant classes of benefits and costs other than those specified in the RIT T before a project specification consultation report is made (clauses 5.6.5B(4)(x)(A) and 5.6.5B (8)(iv)(A));
 - ... a TNSP is to provide reasons why a particular class of market benefit is likely not to affect materially the outcome of the assessment of the credible options under the RIT T or why the estimated cost of undertaking the analysis to quantify the market benefit is likely to be disproportionate to the benefits of each credible option considered in its report (clause 5.6.5B(c)(6))
 - ... the consultation period on an AER draft determination during its cost threshold review is a minimum of 5 weeks (clause 5.6.5E(d));
 - ... a TNSP may discharge its obligations to make available a project assessment draft or conclusion report by publishing that report in its Annual Planning Report provided the Annual Planning Report is published within a specified timeframe (clauses 5.6.6(m) and 5.6.6(x));

- ... a TNSP must prepare and publish a project assessment conclusions report if it is exempt from making a project assessment draft report (clause 5.6.6(t)) and this report may be disputed under clause 5.6.6A; and
 - ... a TNSP must publish a project assessment conclusions report (clause 5.6.6(s) and (t), noting that this relates to the dispute resolution process' timeframes under clause 5.6.6A.
- Clause 5.6.6A also clarifies that a Transmission Network Service Provider must comply with a determination by the AER directing a TNSP to amend matters in its project assessment conclusions report within the timeframe specified in the AER's determination.
 - Clause 5.6.6AA clarifies that the AER may make a costs determination if it engages a consultant during a dispute resolution process under clause 5.6.6A.
 - Clause 5.6.6AA clarifies that its process (for a TNSP to seek an AER determination that its proposed investment satisfies the RIT T) may only be made following the expiry of the 30 day period for disputing a TNSP's project assessment conclusions report.
 - Some amendments set out in the Draft Rule have been removed due to a package of other NER amendments related to the functions of AEMO, which commences operation on 1 July 2009.
 - The RIT T's scope has required consequential minor amendments to some definitions in Chapter 10, namely: "plant", "considered project" and "potential transmission project".

For further detail, refer to **Appendix B**.

2.5 Commission's power to make the Rule

The Commission is satisfied that the Rule as Made falls within the subject matters that the Commission may make Rules as set out in section 34 of the NEL and in Schedule 1 of the NEL. The Rule as Made is within:

- the matters set out in section 34 (1)(a)(iii), as it relates to the activities of persons participating in the NEM or involved in the operation of the national electricity system;
- the matters set out in items 12, 14A and 14B of Schedule 1 to the NEL, as it relates to the operation of transmission systems which is subject to National Electricity Rules; and
- the matters set out in items 15 - 24 of Schedule 1 to the NEL as it also relates to transmission system revenue and pricing.

This page has been intentionally left blank

3 Commission's assessment approach

This chapter sets out the Commission's approach for assessing the Rule Change Proposal. The Commission's detailed assessment and reasons for its Rule determination are set out in chapters 4, 5 and 6.

3.1 Methodology

In assessing any Rule change request against the NEL criteria the first step is to consider the counterfactual arrangements against which the Rule change is being compared. In the present case the counterfactuals are the current arrangements; being the current Regulatory Test.

Given the present context, this task involves reviewing the NTP Final Report for its recommendations and rationale supporting the proposed RIT-T Rules. Accordingly, to assess the Rule Change Proposal the Commission's approach has been to:

- describe the proposed RIT-T Rules which are the subject of the Rule Change Proposal;
- consider the key recommendations and supporting reasoning for the proposed RIT-T Rules (from the NTP Final Report);
- review and analyse the proposed RIT-T Rules for their consistency with the key RIT-T recommendations;
- review and analyse the proposed RIT-T Rules for their clarity and consistency with the Rules more generally, particularly given the commencement of Rules since the completion of the NTP Final Report, and other developments, such as the AEMO establishment process;
- assess the proposed RIT-T Rules and their rationale, together with any amendments, against the NEO, taking into account the revenue and pricing principles;
- consider and assess the issues raised by stakeholders in response to the Draft Rule Determination and Draft Rule;
- review the Draft Rule in the light of issues raised by stakeholders and analysis, and finalise the Rule as Made; and
- assess the Rule as Made and its rationale against the NEO, taking into account the revenue and pricing principles.

3.2 Rule making test and the National Electricity Objective

The Rule making test states that the Commission may only make a Rule if it is satisfied that the Rule will, or is likely to, contribute to the achievement of the NEO²³. The objective of the NEL is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- price, quality, safety, reliability and security of supply of electricity; and
- the reliability, safety and security of the national electricity system.²⁴

The NEO is founded on the concepts of economic efficiency (including productive, allocative and dynamic dimensions of efficiency), good regulatory practice (which refers to the means by which regulatory arrangements are designed and operated) as well as reliability, safety and security priorities.

In its Rule Change Proposal the MCE gave the following reasons as to why, in its view, the proposed RIT-T Rules meet the NEO:

- the proposed RIT-T Rules seek to identify options that maximise the present value of net economic benefit (or minimise the present value of net economic costs) subject to meeting relevant jurisdictional Rule based reliability standards (where they apply). The amalgamation of reliability and market benefits would optimise the decision making process in relation to transmission planning and also promote efficiency.
- the proposed RIT-T Rules would provide a prescriptive framework for the inclusion of national market benefits by providing a list of classes of market benefits and costs that a TNSP must consider in undertaking the project assessment stage. This framework would encourage TNSPs to broaden the scope of possible market benefits, rather than potentially focusing only on the impact of augmentations within a particular jurisdiction or region.
- the proposed RIT-T Rules would facilitate earlier consultation in the planning process thereby enabling other potential viable non-network options to be identified and assessed appropriately.²⁵

Accordingly, for the MCE, the aspects of the NEO that are of relevance in the context of this Rule Change Proposal are certainty, predictability and transparency, leading to optimal and efficient decision-making.

²³ See section 88(1) of the NEL.

²⁴ See section 7 of the NEL.

²⁵ Rule Change Proposal, Part 2, p 4.

3.3 Revenue and pricing principles

In addition to the Rule making test set out in section 88 of the NEL under section 88B of the NEL, the Commission must take into account the revenue and pricing principles in making a Rule for or with respect to any matter of thing specified in items 15 to 24 and 25 to 26H of Schedule 1 to the NEL. The subject matter of the Rule Proposal requires the Commission to take into account the revenue and pricing principles.

The revenue and pricing principles relate to providing a reasonable opportunity to service providers to recover efficient costs, effective incentives to promote efficiency and to ensuring that prices should allow for a return commensurate with the regulatory and commercial risks involved in providing the service.

This page has been intentionally left blank

4 Context for proposed RIT-T Rules

The MCE requested that the proposed RIT-T Rules be progressed based on the recommendations to implement a new RIT-T advanced by the Commission in the NTP Final Report. Prior to considering the proposed RIT-T Rules in detail, the key recommendations and reasoning supporting the proposed RIT-T Rules are summarised below²⁶.

For the purposes of considering the proposed RIT-Rules and the Draft Rule, as well as submissions on the Draft Rule, the Commission considers that the RIT-T recommendations contained in the NTP Final Report are current, relevant and present a sound basis from which to assess the proposed RIT-T Rules. The assessment of the proposed RIT-T Rules, which was the subject of the Draft Rule Determination, is reproduced in chapter 5. The Draft Rule is considered in chapter 6.

4.1 Description of proposed RIT-T Rules

The proposed RIT-T Rules provide for a single framework to apply to all transmission investment. They would remove the current distinction between reliability-driven projects and projects motivated by the delivery of market benefits.

The NTP Final Report summarised the RIT-T recommendations as follows:

- The RIT-T should be undertaken by a transmission network service provider (TNSP) when a transmission network planning issue exists and the most expensive economically credible option is estimated to cost more than \$5 million; the planning issue is not urgent or unforeseen; and the planning issue is not solely the provision of connection services nor negotiated transmission services or replacement;
- The purpose of the RIT-T should be to identify the preferred option, being the one which maximises the present value of net economic benefit (or minimises the present value of net economic cost) subject to meeting relevant jurisdictional Rule based reliability standards (where they apply);
- The RIT-T would involve:
 - a quantified assessment of costs and benefits across a range of credible options;
 - a 12-week consultation on the range of credible options to assess and the classes of costs and benefits (from a standardised list) that are materially relevant;
 - publication of a draft report on the assessment of costs and benefits for consultation for 6 weeks;

²⁶ For more detail on the RIT-T refer to the NTP Final Report, chapter 4.

- an ability to raise disputes, which would then be assessed by the AER; and
- the application of the same process irrespective of whether a transmission issue is motivated by reliability or by the potential to deliver market benefits, or both; and
- Projects assessments for planning issues relating to distribution networks would continue to be assessed under the current regulatory test.²⁷

Refer to Appendix A for a flow chart which sets out the RIT-T process.

4.2 Reasoning for RIT-T

The reasoning supporting the key RIT-T recommendations is set out below.²⁸

4.2.1 Amalgamation of the reliability and market benefits limbs of the Regulatory Test

As part of the NTP Review the MCE directed the Commission to establish a new project assessment and consultation process which amalgamated the reliability and market benefits limbs of the current Regulatory Test, in order to allow proposed transmission projects to be assessed against both local reliability standards as well as their ability to maximise benefits to the national market.

Under the proposed RIT-T, all prospective investments above a suitable cost threshold would be assessed under a cost-benefit framework. The purpose would be to identify options which maximise the present value of net economic benefits (or minimise the present value of net economic costs) subject to meeting relevant jurisdictional Rule based reliability standards (where they apply).

TNSPs would be required to investigate whether an enhancement to a reliability project, or a different project that met the same reliability standard, would provide additional market benefits that justified a higher cost, and select such a project if one is found. Where no options have market benefits, and hence the project is solely driven by the need to meet reliability standards, the RIT-T would effectively be a 'least cost' test analogous to the test applied under the 'reliability limb' of the current Regulatory Test.

4.2.2 Greater prescription of market benefits and costs

The NTP Review also considered whether the current definition of market benefits is sufficiently comprehensive to capture all national benefits rather than those focused within a region of a TNSP.

²⁷ NTP Final Report, p 41.

²⁸ Taken from chapter 4, NTP Final Report.

It was concluded that the current definition of market benefits sufficiently allows for all national benefits to be assessed but the Rules could provide greater prescription on the framework of the RIT-T by mandating a list of classes of market benefits and costs that a TNSP must consider in undertaking the project assessment stage. Under the current Regulatory Test TNSPs could focus only on the impact of augmentations within a particular jurisdiction. By amalgamating reliability and market benefits, TNSPs would be required to broaden the scope of possible market benefits when examining project options.

It was proposed that the Rules mandate a list of market benefits and costs that a TNSP must consider in undertaking the project assessment stage of the RIT-T, thereby addressing the perception that, under the current test, there is a potential to 'cherry-pick' the classes of benefits to be quantified. To improve further the transparency of project assessments, TNSPs would be required to provide information on classes of market benefits occurring outside the TNSP's region.

Providing greater prescription in the Rules as to which classes of benefit and cost should be considered would promote consistency in the application of the RIT-T, and remove any perception that results could be influenced by the selective inclusion or exclusion of classes of costs or benefits. This process would promote more efficient decision making.

4.2.3 Additional market benefit category of option value

The NTP Final Report recommended that an additional category of market benefits for option value be added to the RIT-T process, to cover any benefits that a proposed project may have for future investments and costs. The NTP Final Report reasoned that the inclusion of such benefits could facilitate a more strategic assessment of projects.

An example of this in practice would be a non network investment potentially deferring network investment, and thus enabling the deferred network investment to benefit from improved information and therefore be more appropriately specified. Another example was provided in the Draft NTP Report, being the value of increasing the capacity of a radial line above the level of service required by the reliability planning standards to allow for the possibility of new generation connecting without any future investment.²⁹

4.2.4 Scope of projects

The NTP Final Report recommended the following scope of projects:

- the cost threshold for projects subject to the RIT-T should increase from \$1 million to \$5 million;

²⁹ Draft NTP Report, p 46

- that the threshold should be applied to the most expensive option which is both technically and economically feasible;
- that urgent and unforeseen investments should be exempt from undertaking the RIT-T;
- network reconfigurations which augment the network or affect service levels and cost more than \$5 million should be also subject to the RIT-T; and
- projects which combine augmentation and replacement expenditure should also be included if the augmentation component is more than \$5 million.

A cost threshold of \$5 million for projects subject to the RIT-T would reflect an appropriate balance between the regulatory burden placed on TNSPs and would ensure that transmission investments proceed in a timely manner. Small scale projects would be likely to have less profit potential, therefore it is less likely TNSPs will favour uneconomic behaviour. Further, under the proposed RIT-T there would likely be an increase in the proportion of projects that require benefits to be quantified as part of the project assessment process, and applying such analysis to small scale projects would place an undue regulatory burden on TNSPs.

It was also considered sensible to apply the threshold to the most expensive option which is technically and economically feasible, instead of the preferred solution. TNSPs should be encouraged to undertake project specification consultations earlier in the planning process and linking the threshold to the TNSPs preferred solution may unnecessarily delay the project assessment process.

4.2.5 Project specification consultation

All projects subject to a RIT-T assessment would be required to go through a project specification consultation stage, before any assessment of costs and benefits. The purpose of this stage would be to consult on the range of materially relevant costs and benefits and the range of credible options. Market participants, including the national transmission planner, would have the ability to comment on the possible market benefits and also possible options for consideration. The timeframe for consultation should be twelve weeks, at a minimum.

Under the current Rules, the procedural differences determined by a TNSP's decision as to whether an investment is reliability or market benefits driven cannot be rolled forward in the context of a single 'limb'. A standard consultation process would need to apply to all projects subject to the RIT-T to achieve the requirement of the two limbs of the existing Regulatory Test being integrated into a single limb.

It was considered that the consultation stage would help ensure that all potential options are identified and considered and would enable all market participants to inform the TNSPs on the extent of possible market benefits associated with the proposed investment. This would ensure that the key inputs into the project assessment would be subject to consultation, helping to improve the application of the assessment and promote transparency.

Prior consultation would improve the identification of alternatives and market benefits. The NTP Final Report highlighted that the risk that efficient options (and possible non-network options) are overlooked would be reduced when substantially increasing the amount of consultation undertaken on the options that are available to address any given transmission issue.³⁰

Further, earlier consultation would enable market participants to identify possible national market benefits associated with the projects which would ensure that broader market benefits are recognised under the project assessment process.³¹

4.2.6 Selection of market benefits and costs to be quantified

TNSPs would be required to quantify those classes of market benefits associated with each credible option which, in their objective judgement, have a material relevance.

It was concluded that it would be preferable to give TNSPs some guided discretion to decide which classes of benefits would require quantification on a case by case basis. Mandating the quantification of all costs could impose an unnecessary or impractical burden on TNSPs without adding any value to the decision making process. The RIT-T would include a quantification of all classes of market benefits which are deemed to be material. TNSPs would need to demonstrate why a particular class of benefit did not need to be analysed in the particular circumstances. In making its decision, the TNSP should have regard to the views of market participants raised during the project consultation process.

4.2.7 Selection of credible options for assessment

The NTP Final Report reasoned that the most appropriate approach for selection of credible options for assessment would be for a TNSP, under an objective framework (including consultation), to determine which alternatives are credible and should be assessed under the RIT-T. The framework should specify the definition of a credible option and require the TNSP to apply this definition in an objective and balanced manner.

With respect to the framework for the selection of credible options, the current arrangements for identifying credible alternatives for discretionary market benefits investment were deemed sensible and appropriate. They would allow TNSPs to dismiss unrealistic or insubstantial alternatives, while also ensuring that realistic and well-defined alternatives are given due consideration. Therefore it was proposed that such arrangements are extended to cover all projects.

4.2.8 Project assessment

Following a review of the submissions received during the project specification consultation stage, the TNSP would decide upon the credible options and material

³⁰ NTP Final Report, Summary xi.

³¹ NTP Final Report, Summary xi.

benefits to be assessed. The TNSP would carry out the cost-benefit analysis as required by the RIT-T which would be developed by the AER.

The next stage would be for the TNSP to consult on the findings of the project assessment and the option which maximises net economic benefit through the publication of a project assessment draft report. The TNSP would also be required to provide reasoning for its decisions in respect to the selection of credible options and material market benefits.

To ensure timely investments it would be appropriate to link the publication of the project assessment draft report to the date of the project specification consultation report. It was proposed that if the TNSP elects to proceed with the investment then the project assessment draft report must be published within 12 months of the end of the consultation on the project specification.

4.2.9 Exemption from project assessment draft report stage

The proposed RIT-T should make appropriate and efficient use of the planning resources available to the TNSPs. In particular, projects justified solely on reliability grounds should be delivered in an efficient and timely manner. It was concluded that certain limited projects should be exempt from the requirement of having to release and consult on a project assessment draft report. Such projects would go straight to the issue of a project assessment conclusions report.

A TNSP would be exempt from having to release a project assessment draft report if:

1. The estimated capital cost of the proposed preferred option is less than \$35 million;
2. the TNSP has stated its proposed preferred option, its reasons why the option is the proposed preferred option, and that it intends to apply this exemption clause in the project specification consultation report;
3. the TNSP considers, that the proposed preferred option and any other credible option will not have a material market benefit, and has stated this in its project specification consultation report; and
4. no submissions were received on the project specification consultation report which identifies additional credible options that could deliver a material market benefit.

4.2.10 Review of cost thresholds applied in the RIT-T

The proposed new RIT-T would use a cost value as a threshold in two instances:

- a cost value of \$5 million in determining the scope of projects subject to the RIT-T; or
- a cost value of \$35 million in determining, among other factors, whether a project can be exempted from the project assessment draft report stage.

These cost values would be reviewed by the AER every three years, in light of varying input costs overtime. Three yearly reviews were considered suitable due to historical input costs not varying significantly on an annual basis.

4.2.11 Dispute resolution

Currently, under the Rules the dispute resolution framework is based on the separate limbs. Only issues relating to new large transmission augmentations (greater than \$10 million) can be disputed. Also, the dispute resolution process and grounds for dispute differ depending on whether the proposed investment is considered to be a reliability investment or a discretionary market investment. In place of this the RIT-T framework contemplates a single consistent framework for dispute resolution. It is needed to support the amalgamation of the market benefit and reliability limbs of the current regulatory test.

It was recommended that the Rules contain more specification and detail on the basis for resolving disputes. The basis for assessing disputes should be whether the TNSP has complied with the Rules and the AER's RIT-T, and to directing the TNSP to amend its analysis consequently, if required. The AER's role should be a merits review; that is, considering whether the best option has been selected, as this would create uncertainty for participants disputing the assessment and the affected TNSPs which might in turn deter legitimate disputes being raised. Further, greater prescription in the Rules would allow the AER to reject disputes immediately if the grounds for dispute were invalid, misconceived or lacking in substance. This safeguard was considered to be required to prevent parties raising baseless or vexatious disputes in order to delay projects. The AER would be required to provide its reasons for any determination.

It was proposed that for all transmission projects that are subject to the RIT-T, interested parties could raise disputes in relation to the application of the RIT-T assessment, including the choice of credible options, the choice of classes of benefit to quantify, the accuracy of the analysis, and the results of the RIT-T.

4.3 Outcomes of NTP Final Report regarding RIT-T and their continued relevance

Prior to finalising the RIT-T recommendations (and the other recommendations contained in the NTP Final Report) the Commission undertook an extensive and robust review process as part of the NTP Review. The Commission consulted extensively with market participants and other stakeholders at various stages and engaged expert advice as required to inform its decision making. Its process was consistent with the MCE terms of reference.

The RIT-T recommendations (and supporting reasoning) are consistent with the assessment criteria adopted by the Commission for the NTP Review, including promoting efficiency, proportionality and good regulatory design.

In this regard the RIT-T recommendations and rationale present a sound and robust basis from which to consider the proposed RIT-T Rules which are the subject of this Rule Change Proposal, as well as the Draft Rule.

A number of developments have occurred and are ongoing since the completion of the NTP Final Report; in particular, the Commission's Climate Change review. At the time of writing, these developments would not require any amendments to the proposed RIT-T Rules or the Draft Rule or question the validity or relevance of the RIT-T recommendations as a basis for considering the proposed RIT-T Rules.

5 Assessment of proposed RIT-T Rules

This chapter reproduces from the Draft Rule Determination the assessment of the issues arising out of the Rule Change Proposal. Chapter 6 assesses the issues arising out of submissions received in response to the Draft Rule Determination and Draft Rule.

In the Draft Rule Determination the Commission reviewed the proposed RIT-T Rules for their consistency with:

- the recommendations from the NTP Final Report (as set out in chapter 4 above); and
- the Rules more generally, particularly given the commencement of Rules since the completion of the NTP Final Report and other developments, such as the implementation of the AEMO package.

Following this, in the Draft Rule Determination the Commission assessed the proposed RIT-T Rules, together with the amendments identified by the Commission, against the Rule making test.

5.1 Consistency of proposed RIT-T Rules with the NTP Final Report

In the Draft Rule Determination the Commission concluded that the proposed RIT-T Rules were consistent with the recommendations and rationale contained in the NTP Final Report. They were reflective of the benefits referred to in the NTP Report including:

- removing the current distinction in process between mandatory reliability and discretionary economic investments;
- ensuring that all market benefits associated with any prospective investment are properly considered when deciding between different options; and
- at the same time, not risking the ability of TNSPs to solely deliver reliability based projects within appropriate timeframes, and ensuring that accountability for investment decisions remains with TNSPs.

As stated in the Draft Rule Determination, the proposed RIT-T Rules would involve the following amendments to the Rules:

- inserting new clauses 5.6.5B, 5.6.5C, 5.6.5D, 5.6.5E and 5.6.6AA;
- replacing existing clauses 5.6.6 and 5.6.6A with new clauses;
- amending a number of provisions in chapter 6A; and

- inserting new savings and transitional provisions in chapter 11.³²

The proposed RIT-T Rules are explained in detail below.

5.1.1 Requirement to develop and publish Regulatory Investment Test for Transmission

- Clause 5.6.5B sets out the requirements for the regulatory investment test for transmission (RIT-T) to be prepared by the AER. It articulates the main purpose of the RIT-T, being to identify the transmission investment option which maximises the present value of net economic benefits to all who produce, consume and transport electricity in the market. The RIT-T would allow for investments which are required to meet relevant jurisdictional Rule based reliability requirements to have negative net economic benefits.
- The essential features of the RIT-T are described in detail in clause 5.6.5B(c). Importantly the RIT-T must:
 - be based on a cost-benefit analysis of the future were each credible option to be implemented compared to the situation of no options taking place;
 - not require a disproportionate level of analysis to the scale and impact of the likely options being considered;
 - be able to be applied in a predictable, transparent and consistent manner;
 - require TNSPs to consider a number of classes of market benefits (which could be negative or positive) that could be delivered including:
 - ... changes in fuel consumption arising through different generation dispatch;
 - ... changes in voluntary load curtailment;
 - ... changes in involuntary load shedding using a reasonable forecast of the value of electricity to consumers;
 - ... changes in transmission losses and ancillary service costs;
 - ... changes in other parties' costs;
 - ... option value; and
 - ... competition benefits.
 - include a quantification of the classes of market benefits that are determined to be material in the TNSP's reasonable opinion unless the TNSP can demonstrate in the project assessment draft report that a particular class of market benefit will not affect the outcome of the assessment of each option; or

³² Draft Rule Determination, p 21

the cost of undertaking the quantification analysis would be disproportionate to the benefit; and

- require TNSPs to quantify the following classes of costs in relation to the credible option:
 - ... incurred in constructing or providing the credible option;
 - ... operating and maintenance;
 - ... compliance; and
 - ... any other class determined to be appropriate for inclusion in the RIT-T by the AER.

5.1.2 Requirement to make RIT-T guidelines

- Clause 5.6.5B(d) requires that, at the same time as developing and publishing the RIT-T, the AER must also develop and publish guidelines for the operation and application of the RIT-T.
- Under clauses 5.6.5B(e) - (f) the guidelines must provide guidance on the operation of the RIT-T, the process to be followed in applying the RIT-T and how disputes raised would be addressed and resolved. They must also provide worked examples on more technical details such as what constitutes a credible option, acceptable methodologies for valuing costs and what constitutes an externality under the RIT-T.
- Clause 5.6.5B(g) requires the AER to develop and publish the first RIT-T and guidelines by 12 months after the proposed RIT-T Rules commence. See amendments to chapter 11 below for related provisions.

5.1.3 Transmission assets subject to the RIT-T

- Clause 5.6.5C(a) sets out the transmission investments to which the RIT-T must be applied. A TNSP must apply the RIT-T to a proposed transmission investment except where:
 - the investment is required to address an urgent and unforeseen network issue that would otherwise put at risk the reliability of the transmission network;
 - the estimated capital costs for the most expensive of the range of possible credible options is less than \$5 million;
 - the investment relates to maintenance or replacement and not intended to augment the transmission network;
 - the investment is a reconfiguration investment which the TNSP reasonably estimates to have a capital cost of less than \$5 million;

- the maintenance or replacement expenditure also results in an augmentation to the network but the estimated capital cost for that augmentation component is less than \$5 million;
 - the transmission investment will be a dual function asset;
 - the investment is designed to ensure that a distribution network meets the minimum power system security and reliability standards;
 - the investment will be a connection asset; or
 - the cost of the investment to be recovered through charges in relation to negotiated transmission services.
- Clause 5.6.5C(b) provides guidance on investments required to address urgent and unforeseen network issues that would otherwise put at risk the reliability of the transmission network. An investment will meet this test if:
 - the investment must be operational within three to six months of identification of the need;
 - the event causing the need was not reasonably foreseeable and beyond the reasonable control of the TNSP;
 - failure to address the need would be likely to affect the reliability and secure operating state of the transmission network; and
 - it is not a contingent project.

Information on a investment determined to address an urgent and unforeseen network issue must be included to in the TNSP's Annual Planning Report.

- For those investments to which the RIT-T does not apply, the TNSP must ensure that the investment is planned and developed at least cost over the life of the investment (clause 5.6.5C(d)).
- Importantly, under clause 5.6.5C(e), a TNSP must not treat different parts of an integrated solution separately as individual investments for the purposes of application of the RIT-T.

5.1.4 Identification of a credible option

- After the project specification consultation stage, the RIT-T requires identification of the possible credible options for the project assessment. In this regard, clause 5.6.5D(a) provides that a TNSP must consider all genuine and practical possible investment options that could reasonably be classified as credible options taking into account without bias: energy source, technology, ownership, extent of enabling intra-regional/inter-regional trading of electricity; whether network or non-network options, whether intended to be regulated; whether there is a viable proponent or any other factor the TNSP reasonably considers should be taken into account.

5.1.5 Review of cost thresholds

- Under clause 5.6.5E(a), every three years the AER must undertake a cost threshold review to take account of the input costs used to calculate the estimated capital costs referred to in clauses 5.6.2A, 5.6.5C and 5.6.5, for the purposes of determining whether the relevant amounts need to be changed.
- Clauses 5.6.5E(b)-(e) set out the process to be adopted by the AER when undertaking the cost threshold review.

5.1.6 RIT-T Procedures – project specification

- The proposed RIT-T Rules contemplate two sequential stages. The first is a project specification stage. Following this is a project assessment stage. Clause 5.6.6(a)-(g) relates to the first stage.
- Under clauses 5.6.6(a)-(b) a TNSP who proposes to make an investment of the type referred to in clause 5.6.5C must undertake a consultation in accordance with this clause.
- A TNSP must prepare a project specification consultation report including:
 - a description of the identified need;
 - technical characteristics of the identified need that a non-network option would be required to deliver such as size of load reduction;
 - detailed description of all possible credible options that address the identified need, including alternative transmission options, demand side management and market network services; and
 - for each possible option, detailed information such as technical characteristics, classes of market benefits considered to be material (Clause 5.6.6(c)).
- A TNSP must make available to all interested persons the report and related information. It must make the report available within 3 business days of a request from an interested person and provide a summary of it to NEMMCO (which NEMMCO must include on its website) (Clauses 5.6.6 (d)-(f)).
- A TNSP must seek submissions on the options and issues included in the report. The consultation period must be not less than 12 weeks (Clause 5.6.6(g)).

5.1.7 RIT-T Procedures - project assessment

- Clause 5.6.6(j) commences the second stage of the RIT-T. If the TNSP elects to proceed with the transmission investment, within 12 months of the end of the consultation period the TNSP must prepare and make available to all interested persons a project assessment draft report. The report must take into account submissions received and include a number of details such as:

- a description of each credible option assessed;
 - a summary of submissions to the consultation report;
 - a quantification of the costs and material classes of market benefit for each credible option;
 - a description of the methodologies used in quantifying market benefits and costs;
 - the identification and value of any class of market benefit estimated to arise outside the TNSP’s region; and
 - the identification of the proposed preferred option and, in respect of it, details on the technical characteristics, estimated construction timetable and commissioning date, indicative costs, and a statement and analysis that the preferred option satisfies the RIT-T.
- For a reliability augmentation the identity of the proponent is required to be included in the project assessment draft report (Clause 5.6.6(k)).
 - The TNSP must provide a summary of the report to NEMMCO (who must include it on its website) and provide a copy of the report to any person within 3 business days of a request (Clauses 5.6.6(m) – (n)).
 - The TNSP must seek submissions from interested persons and the submission period must not be less than 30 business days (Clause 5.6.6(o)-(p)).
 - The TNSP must use its best endeavours to meet with interested parties who request a meeting where the TNSP considers it necessary or desirable to do so or more than two interested parties request a meeting (Clause 5.6.6(q)).

5.1.8 Project Assessment Conclusions Report

- As soon as practicable after the end of the consultation period for the project assessment draft report the TNSP must prepare and make available to all interested parties a further report, a project assessment conclusions report. This report must set out:
 - the matters required for the project assessment draft report; and
 - a summary of submissions and the TNSP’s response to those submissions (clause 5.6.6(r)).
- The TNSP must provide a summary of the project assessment conclusions report to NEMMCO (who must include it on its website) and a copy of it to any interested person within three business days of a request (Clause 5.6.6(s)-(u)).

5.1.9 Exemptions from the project assessment draft report for transmission investments that do not provide material market benefits

- Not all transmission investments must go through the project assessment draft report stage of the RIT-T. Clause 5.6.6(x) provides that a TNSP is not required to comply with clauses 5.6.6(j) to (r) if:
 - the estimated capital cost of the preferred option is less than \$35 million;
 - the TNSP has identified in its project specification consultation report its preferred option, reasons for that option and that its transmission investment has the benefit of this exemption;
 - the TNSP considers that the preferred option and any other credible option does not have a material market benefit for any of the classes of market benefit specified in clause 5.6.5B(c)(4) and has stated this in the project specification consultation report; and
 - the TNSP forms the view that submissions on the project specification consultation report did not identify additional credible options that could deliver a market benefit.

5.1.10 Disputes in relation the application of the RIT-T

- Clause 5.6.6A(a) permits registered participants, the AEMC, the market operator and other interested persons may, by notice to the AER, dispute conclusions made by the TNSP in a project assessment conclusions report. The dispute can be made in relation to:
 - the application of the RIT-T;
 - the basis on which the TNSP has classified the proposed transmission investment as being a reliability augmentation; or
 - the basis on which the TNSP has classified the proposed transmission investment as having a material inter-network impact.
- The dispute cannot be about issues that are treated as externalities by the RIT-T or relate to an individual's property rights (Clause 5.6.6A(b)).
- The notice of the dispute must be given to the AER within 30 days of the publication of the project assessment conclusions report. A copy must be given to the TNSP (Clause 5.6.6A(c)).
- Within 40 days of receipt of the dispute notice the AER must either:
 - reject the dispute notice if the AER considers the grounds invalid, misconceived or lacking in substance; or

- make and publish a determination directing the TNSP to amend the project assessment conclusions report or stating that no amendment is required (Clause 5.6.6A(d)).
- In making its determination the AER:
 - must only take into account information that the TNSP could reasonably be expected to have considered or undertaken at the time of performing the RIT-T;
 - must publish its reasons for making a determination;
 - may request further information from the disputing party or TNSP (the disputing party or TNSP must provide the information requested by the AER);
 - may disregard any matter raised by the disputing party or the TNSP that is misconceived or lacking in substance (Clause 5.6.6A(e)).
- The AER may only make a determination directing the TNSP to amend a project assessment conclusions report if it determines that:
 - the TNSP has not correctly applied the RIT-T;
 - the TNSP has incorrectly classified an investment as being a reliability augmentation or incorrectly assessed whether the investment would have a material inter-network impact; or
 - there was a manifest error in the calculations performed by the TNSP in applying the RIT-T (Clause 5.6.6A(f)).

5.1.11 Determination that new large transmission asset satisfied RIT-T

Under clause 5.6.6AA(a), where an investment is not a reliability augmentation and the conclusion in a project assessment conclusions report is not in dispute the TNSP may request that the AER make a determination as to whether the investment satisfies the RIT-T.

Within 120 business days of receipt of the request the AER must make and publish a determination including reasons. The AER must use the findings and recommendations contained in the project assessment conclusions report, may request further information from the TNSP and may have regard to other matters that the AER considers relevant (Clause 5.6.6AA(b)).

5.1.12 Amendments to Chapter 6A

The proposed RIT-T Rules include a number of amendments to chapter 6A, essentially to require the AER to have regard to any relevant RIT-T project assessment conclusions reports when assessing a TNSP's proposed operational and capital expenditure. Such reports would contain substantial information on the

economic justification of the project which would assist the AER in its determination. The information contained in the reports would be an additional factor, among the other specified factors, that the AER would consider in approving a TNSP's revenue proposal.³³ It was considered by the Commission in the NTP Final Report that these amendments would further drive more efficient outcomes. The clauses affected are 6A.6.6(e), 6A.6.7(e) and 6A.6.7(b)(4).

5.1.13 Amendments to Chapter 11

The proposed RIT-T Rules also include new provisions for insertion into chapter 11. They are required to account for the fact that if the proposed RIT-T Rules were made the AER would need twelve months to prepare the new RIT-T and related guidelines. In the mean time, the existing Regulatory Test would need to apply for transmission investments for the ensuing 13 months. The provisions in chapter 11 were designed to serve this purpose.

5.1.14 Other minor amendments

Other amendments relate to changing the reference from Regulatory Test to RIT-T. They are in Schedule 6A.2. The proposed RIT-T Rules also include consequential amendments to clauses 8.2.1, 9.3.2 and 9.28.3. A number of definitions have been deleted.

5.2 Application of the proposed RIT-T Rules and proposed modifications

In the Draft Rule Determination the Commission made a Draft Rule largely based on the MCE's proposed RIT-T Rules, as described above, subject to some modifications arising out of its own analysis and review. The modifications were considered to improve the application of the proposed RIT-T Rules and better promote the NEO. The manner and reasoning for the significant proposed amendments made by to the proposed RIT-T Rules in the Draft Rule as set out in the Draft Rule Determination is replicated below. The Commission also made a number of consequential and minor drafting changes to improve the clarity and application of the Draft Rule.

5.2.1 Improve clarification and application of the RIT-T

The Commission identified a number of amendments that it considered would improve, and clarify the application of, the proposed RIT-T Rules. These amendments did not affect the principles behind the proposed RIT-T Rules as set out in chapter 4.

Most of the amendments made related to how terms were defined and applied. A number of the definitions in the proposed RIT-T Rules were moved to the main

³³ NTP Final Report, p 75-76

clauses of the Draft Rule as on balance, they appeared to be better located in the main body of the Rules (e.g., credible option, preferred option).

Other modifications included:

- a definition was no longer attached to the term 'transmission investment', rather it is merely referred to generally in the Rule without definition;
- the phrase 'where the relevant credible option is a reliability augmentation, minimises the net economic costs' was included in the preferred option definition. This was to clarify that investments required to meet relevant jurisdictional Rule based reliability requirements may have negative net economic benefits;
- clause 5.6.5B(c)(4)(iv) was amended to clarify that this referred to changes to capital and operational expenditure of other parties (e.g., generators, loads) and not to the TNSPs' costs, which are captured in clause 5.6.6 B (c) (8);
- a requirement was included in clause 5.6.5 B (c) (4) (ix) (A) that any other classes of benefits to be included in the assessment as determined by the TNSP must have been agreed to by the AER;
- a reference to TNSPs was included in clause 5.6.5B(c)(9) for completeness;
- clause 5.6.5 B (c) (10) was expanded to recognise that sensitivity analysis is required in the project assessment. This supported the direction to the AER requiring the scope of the RIT-T guidelines;
- some of the requirements regarding the content of the RIT-T guidelines, set in clause 5.6.5 B (d) were amended to improve and clarify the scope of the guidelines;
- the application of the term of 'credible option' was clarified to remove any duplication of varying concepts relating to the identification of credible options (see clause 5.6.5D (a));
- the definition of 'identified need' was moved to clause 5.6.5C(a) and expanded to provide more guidance as to what issues could be an identified need; and
- the definition of reconfiguration investment was amended to refer to investments which re-route one or more paths of the network other than on a temporary basis. Temporary re-routing of network paths is sometimes undertaken during augmentation of the network and such situations are not intended to be captured in this term.

5.2.2 Transitional Arrangements

As explained in section 5.1.13, the proposed RIT-T Rules would commence 12 months after they are made. Therefore transitional arrangements are needed to

ensure that the current provisions continue to apply in the meantime. However, in the Draft Rule Determination, the Commission noted that the proposed transitional provisions in clause 11.2 of the proposed RIT-T Rules would only grandfather the *Regulatory Test* itself and the process for establishing the test, and not the consultation procedures followed by the TNSPs, nor the reporting procedures on new small transmission network assets.

Therefore, the Draft Rule provided that existing clause 5.6.6 (which covers the existing consultation procedure for large network assets), clause 5.6.6A (process for new small transmission network assets) and clause 5.6.2A (5) (reporting requirements on new small transmission network assets) also be grandfathered.

5.2.3 Clarifying that the regulatory test will still apply to transmission investment which supports the distribution network

The NTP Final Report makes clear that transmission investments which primarily address an issue on a distribution network would not be subject to the new RIT-T and the new RIT-T process, but will instead continue to be subject to the existing Regulatory Test and the existing consultation processes.³⁴

This intent was confirmed in the proposed drafting of clauses 5.6.2(e) and 5.6.2(e1) of the proposed RIT-T Rules. However, the continuation of the Regulatory Test regime for some transmission investments was not fully reflected in the drafting of the proposed RIT-T Rules. In particular, clauses 5.6.2 and 5.6.5A required further amendment to ensure that they capture not only applications of the Regulatory Test by distribution network service providers (DNSPs), but also applications by TNSPs (under joint planning processes), for transmission investment that supports the distribution network.

A related issue was whether the proposed RIT-T Rules would provide sufficient clarity on the treatment of projects that result from the joint planning process. It is recognised that, in practice, some potential projects may address both transmission and distribution network issues. For example, a projected limitation of the capacity of a major transmission/distribution connection point may be able to be addressed either by augmentation of the connection point by the TNSP or by augmentation to the distribution network by the DNSP to move load to alternative connection points.

The introduction of a separate test for transmission would result in two separate project assessment and consultation processes. Under the proposed RIT-T Rules, a TNSP would be required to conduct the RIT-T where the proposed project addresses a problem on the transmission network (subject to the exemptions set out in clause 5.6.5C), which achieves the policy intention of the MCE when it agreed to having a new test for transmission investment.

Therefore where a joint planning situation includes the possibility of transmission investment, the TNSP would be required to apply the RIT-T to identify the preferred option. It would be expected that TNSPs would work closely with DNSPs when

³⁴ NTP Final Report, p.42-43.

conducting the joint planning process to identify the most economic option in such situations.

5.2.4 Achieve consistency with the implementation of AEMO

It is anticipated that the AEMO will become operational on 1 July 2009. The proposed RIT-T Rules required amendments to reflect this, mainly in relation to the AEMO taking over the responsibilities currently performed by the Inter-Regional Planning Committee.

5.2.5 Achieve consistency with other Rule amendments

In October 2008 the Commission made a Rule relating to the regulatory test thresholds and information disclosure on network replacement.³⁵ In the Draft Rule Determination the Commission recognised that there was some overlap between the effect of the Rule relating to the regulatory test thresholds and information and the proposed Rule. For example, this Rule introduced information requirements relating to replacement expenditure. Therefore clause 5.6.2 of the proposed RIT-T Rule was removed since the effect of this clause was already achieved.

5.3 Commission's assessment

In the Draft Rule Determination, the Commission analysed and assessed the issues arising out of the Rule Change Proposal. Outlined below is the Commission's assessment of the Draft Rule (being the proposed RIT-T Rules amended in the manner suggested in section 5.2 above) and its explanation for why the Draft Rule met the NEO from the Draft Rule Determination.

5.3.1 Amalgamation of the reliability and market benefits limbs of the Regulatory Test

The Commission considered that the RIT-T design in the Draft Rule, which amalgamates both reliability and market benefits, adequately addressed the issue raised by ERIG and reflected in the MCE terms of reference for the NTP Review around the limitations of the market benefits limb of the Regulatory Test.³⁶ The RIT-T in the Draft Rule ensures that all prospective investments are assessed both on their ability to meet the reliability standards and their ability to deliver market benefits. A common test means that all projects are assessed in the same manner irrespective of the primary cause of the investment.

³⁵ Regulatory Test Thresholds and Information Disclosure on Network Replacements – October 2008.

³⁶ In its report ERIG highlighted that over 90 per cent of projects submitted to the Regulatory Test have been submitted as reliability augmentations. ERIG indicated that many of these projects would have had both market and reliability benefits. However, due to the least cost assessment nature of the reliability limb, alternative options which have broader market benefits would **not** be deemed to have passed the Test if they are not least cost, regardless of any benefits that may accrue to the national market.

5.3.2 Assessment and consultation process

The RIT-T project assessment set out in the Draft Rule involves TNSPs:

- issuing a project specification consultation report to all Registered Participants, NEMMCO and other interested parties and seeking submissions on the credible options presented, over a consultation period no less than 12 weeks;
- preparing a project assessment draft report which outlines the process of identifying the preferred option, taking into account submissions;
- seeking submissions on the project draft report, over a consultation period no less than 30 days; and
- as soon as practicable after the consultation period, issuing a project assessment conclusions report, taking into account submissions.

This can be compared to the current project assessment approach which involves TNSPs:

- sending a Request for Information for projects which have an estimated cost of more than \$10m and are not reliability augmentations;
- seeking submissions, over a consultation period no less than 8 weeks; and
- issuing an application note outlining reasons for proposed asset, which is published for 30 days.

Interested parties can make a submission to the application note and may request a meeting. TNSPs must then produce a Final Report, containing same detail as application notice and summarises submissions received.

The major difference between the current consultation process and the process proposed in the Draft Rule is the timing of providing information to market participants on the identified need and potential options to serve that need. The requirement for TNSPs to prepare a project specification report (which details the identified need and potential options) before any assessment of costs and benefits substantially brings forward this information for market participant consideration compared to the current approach.

This is likely to promote greater consultation from relevant stakeholders, which should help ensure that more potential options are identified, considered and quantified in terms of possible market benefits associated with the proposed investment options. This process should reduce the risk that efficient options are overlooked and ensure that broader market benefits are recognised under the project assessment process, and thus improve the application of the assessment and promote transparency. The Commission believed this framework would provide a superior platform for non-network options to be considered, as well as quantifying the market benefits associated with credible options put forward.

5.3.3 Greater prescription of market benefits and costs

Compared to the current Regulatory Test the Draft Rule provides greater prescription on classes of benefits and costs needed to be considered whilst undertaking an investment assessment process. This is supported by the direction given to the AER regarding the content of the RIT-T guidelines.

The Commission considered this greater prescription in the Draft Rule would improve the consistency and transparency across transmission investment assessment and should, over time, promote more efficient decision making. In addition, the requirement in the Draft Rule to provide information on any classes of market benefits which occur outside the TNSP's region would promote a more strategic national focus for transmission investment which should lead to more efficient outcomes over time.

Furthermore, the Commission was of the view that the specification of an additional market benefits category for option value in the Draft Rule would facilitate a more strategic assessment of projects. This would be likely to optimise decision making and improve the efficiency of the transmission investment assessment.

5.3.4 Scope of projects

Under the Draft Rule, projects where the most expensive option is less than \$5 million are exempted from the project assessment process. The Draft Rule also clarifies the treatment of joint augmentation/replacement projects and reconfiguration investments, and provides an exemption for urgent and unforeseen investments.

This recognised the appropriate balance between ensuring that the appropriate range of projects are subject to a robust economic assessment and the timing and resources required to conduct the planning process.

5.3.5 Selection of market benefits and costs to be quantified

The Draft Rule allows the TNSP in each application of the RIT-T to identify and consult on which classes of benefits and costs are likely to be materially relevant to the decision being made, thus allowing the TNSPs to apply judgment, supported by reasoning and analysis, to justify the specification of the RIT-T in any given case, with stakeholders given the opportunity to comment. This process should ensure that a proper assessment is undertaken on market benefits and costs whilst at the same time where possible it seeks to reduce, where possible, the regulatory burden faced by TNSPs, as such reflecting good regulatory practice.

5.3.6 Exemption from project assessment draft report stage

The Draft Rule permits a possible exemption from the project assessment draft report stage. This exemption should help prevent straightforward investment from being unnecessarily delayed where appropriate, thus reducing the regulatory burden faced by TNSPs and, as a result, promote good regulatory practice. The Draft Rule

provides sufficient clarification and obligations to prevent this exemption from being inappropriately used. Furthermore such projects remain subject to the possibility of a dispute being raised.

5.3.7 Rule making test

In the Draft Rule Determination, the Commission was satisfied that the Draft Rule will or is likely to contribute to the achievement of the NEO, taking into account the revenue and pricing principles. In its view, the Draft Rule would promote the efficient investment in electricity services for the long term interests of consumers of electricity through:

- the amalgamation of the reliability and market benefits limbs of the Regulatory Test should optimise the decision making process in relation to transmission planning by promoting dynamic and allocative efficiency. By including the assessment of market benefits, the transmission process should promote more efficient investment over time;
- greater prescription of market benefits and costs and how they should be assessed should improve the consistency and transparency across transmission investment assessment and should, over time, promote more efficient decision making;
- requiring a project specification consultation should improve the transparency and application of the transmission assessment process which will ultimately promote more efficient outcomes over time;
- a substantial increase in the amount of consultation undertaken in relation to transmission assessment should unearth a greater number of efficient investment options and therefore lead to more efficient outcomes overtime; and
- exemptions from the project assessment draft report stage promotes the efficient use of resources where appropriate, thus reduces the regulatory burden faced by TNSP's and as a result promotes good regulatory practice.

In the Draft Rule Determination the Commission stated that the Draft Rule is also consistent with the revenue and pricing principles because, through greater consultation and more prescription of the costs and benefits to be assessed, the transmission planning process should identify more efficient investment. This will address the risk of the potential for under and over investment by the TNSP and the potential for under or over utilisation of the transmission network.

This page has been intentionally left blank

6 Assessment of Draft Rule and Rule as Made

This chapter sets out the Commission's consideration and assessment of the issues and drafting suggestions arising out of submissions received in response to the Draft Rule Determination and Draft Rule. It also sets out the Commission's reasons for making the Rule as Made.

The Rule as Made amends existing provisions which are classified as civil penalty provisions. It also introduces some new provisions which the Commission recommends should also be classified as civil penalty provisions. This matter discussed in section 6.2 below.

6.1 Issues arising out of consultation

As stated in chapter 1, five submissions on the Draft Rule Determination and the Draft Rule were received. Submissions received were supportive of the Draft Rule as a whole. The majority of comments sought clarification as to how particular provisions would be applied and suggested amendments that, for the most part, sought to improve the clarity and application of the provisions, given the design of the RIT-T articulated in chapter 4.

Some of the submissions raised specific higher level drafting and policy issues regarding certain aspects of the Draft Rule. They cover the following areas:

- additional market benefit category of 'option value';
- regulatory tests for joint planning;
- how to demonstrate market benefits that are not material;
- scope of the RIT-T; and
- the use of certain terms defined in the Rules; being *reliability augmentation* and *power system security and reliability standards*.

The Commission's response to these issues is given below.

A table summarising all of the significant points raised in submissions and detailing the Commission's response is contained in Appendix B. Grid Australia made a number of minor drafting suggestions that were not discussed in the main body of its submission. These have not been included in Appendix B. Several of these changes have been accepted as they improved the clarity and consistency of the drafting.

6.1.1 Additional market benefit category of 'option value'

In relation to the market benefit category of option value, two issues were raised.

6.1.1.1 Guidance on the type of benefit captured by ‘additional option value’

In its submission, the AER suggests that the Commission provide greater guidance on what additional benefit the concept of option value is attempting to capture or not oblige the AER to include this class of costs in the RIT-T (clause 5.6.5B(4)(viii)). The AER suggests that this could be considered by including this class of benefits under clause 5.6.5B(c)(4)(ix)(B).³⁷ The AER’s submission refers to an attached paper prepared by Frontier Economics, which states that as no definition for ‘option value’ is provided, it is unclear to what this term refers.³⁸ Energex makes a similar point in its submission, noting that the additional market benefit category of ‘options value’ will require additional specification in the AER’s RIT-T Guidelines.³⁹

6.1.1.2 Quantifying ‘additional option value’

The Frontier Economics attachment to the AER submission suggests that the term ‘option value’ be deleted from clause 5.6.5B(c)(4)(viii), in the absence of expert supporting analysis and evidence.⁴⁰ The reason for this suggestion is expanded upon in the AER supplementary submission, which also attaches a paper prepared by Frontier Economics. The attachment stresses that a real options approach to estimating market benefits is an alternative approach to scenario analysis for dealing with uncertainty, rather than a process that yields a distinct additional type of market benefit not available under a scenario approach. This means that a real options approach is simply a different way of calculating market benefits rather than a distinct type of market benefit that is missing from the RIT-T. Frontier Economics for the AER submits that if a reference to real options analysis is to remain in the RIT-T it should only be one alternative methodology to account for uncertainty in cost-benefit analysis and suggested alternative drafting in this respect.⁴¹

6.1.1.3 Comment

In responding to submissions on the need for greater guidance on what benefit option value captures, the Commission draws attention to the interaction between uncertainties and the irreversible nature of transmission investments. The benefits of valuing optionality are more pronounced when the future is uncertain. Conversely, options have no value in a world where the future is certain.

Uncertainties may be insufficiently considered in traditional tools for valuing investment and may lead to sub-optimal investment. Planning for transmission investment is usually conducted as a static optimisation using discounted cash flow methods. This regards the future passively and may overlook possible consequent decisions or contingent investments. For instance, when an irreversible transmission

³⁷ AER submission, p.4

³⁸ AER submission, attachment p.2-3

³⁹ Energex submission p.1

⁴⁰ AER submission, attachment, p.2-3

⁴¹ AER supplementary submission, p 2

investment is made (the investment option is exercised) the option to defer is no longer available. This lost option value is an opportunity cost that may be material.

Improved analysis of transmission investment should aim to manage the risk of future scenarios transmission planning that lets the TNSP make economic adjustments. This property is called 'flexibility'. Expressing the value of flexibility in economic terms is not a trivial task and requires new, sophisticated tools. These tools are being increasingly applied to electricity generation and transmission investments in many jurisdictions internationally.⁴² Including option value as a market benefit may help TNSPs by providing some flexibility to address the uncertainties arising out of the implementation of climate change policies, such as an emissions trading scheme and expanded renewable energy targets.

In its report prepared as part of the Commission's Review of the Role of Demand Side Participation in the NEM, NERA stated that the option-value associated with the deferral of a network investment may not be currently considered by network service provider when evaluating non-network alternatives to a network investment. NERA concluded that the benefit of a network investment deferral is a combination of the deferred and reduced capital expenditure, *plus the associated option-value that it creates*.⁴³

An approach based on real option valuation may more accurately capture the value of a deferred decision than an approach based on analysis of probability-weighted net present value. The NTP Final Report gave the example of the option value of a non-network investment that may help to defer a network investment, enabling the deferred network investment to benefit from improved information and therefore be more appropriately specified.⁴⁴ In this example, the option-value is a benefit that results from allowing new information that can affect the need for, or specification of, the original network investment, to become available. The improved information, say on outturn demand as compared with forecast demand, allows a network investment to be more appropriately specified, leading to potential cost savings.⁴⁵

The NTP Final Report gave a second example of the kinds of benefit additional option value captures. This was the value of increasing the capacity of a radial line above the level of service required by the reliability planning standards to allow for the possibility of new generation connecting without any future investment.⁴⁶ Although the provision of a possible new connection service would not itself be captured by the RIT-T, a contemplated reinforcement of the shared network (such as

⁴² See for instance: Vasquez, P. and Olsina, F., *Valuing Flexibility of DG Investments in Transmission Expansion Planning* Power Tech, 2007 IEEE Lausanne Volume, Issue, 1-5 July 2007, pp.695 - 700
Zeng Ming, Tian Kuo, *Transmission Capacity Expansion Investment Decision in Electricity Market*, 2008 International Conference on Risk Management & Engineering Management, 2008, pp.287-292
NZ Electricity Commission, *Draft report on transmission to enable renewables*, April 2008, p.23-24, Appendix 4

⁴³ NERA Report, p.41-42

⁴⁴ NTP Final Report, p.47

⁴⁵ NERA Report, p.41

⁴⁶ NTP Final Report, p.47

construction of larger transmission towers and associated wires), where the benefits are a function of how much generation connects, would be subject to the RIT-T. Design options might be to:

- (a) build the shared network beyond present needs;
- (b) build the shared network to meet present needs; or
- (c) build the shared network to meet present needs but with the ability to expand quickly and at lower cost (for example building larger towers, with the ability to add more or larger lines in the future).

In this expanded example (c) might be a more beneficial option than (a), even if the aggregate cost is higher, because it has optionality. Option (c) allows the decision to be deferred until the underlying uncertainty is reduced. This, in itself, has a value.

In the above example, in option (c), if the future generation eventuates, the incremental transmission capacity has already been provided for and can be added at lower cost. Investment in reinforcing the transmission network above present needs would ultimately be achieved at a lower cost. However, the benefit of this investment beyond present needs depends on a range of uncertain factors which a TNSP may need to analyse to arrive at an optimal investment. Using techniques to value the optionality embedded in different alternatives has the potential to value the benefits (and hence rank the projects) more accurately than attaching probabilities to the net present values of each alternative under different scenarios. The NTP Final Report concludes, option value is a useful class of benefit which refers to any additional benefits that a proposed project may have for future investments and costs, and that considering this additional class of benefits in the RIT-T may also facilitate a more strategic assessment of projects.⁴⁷

The Rule as Made contemplates that additional option value may not be a class of market benefits for consideration in all cases, because the cost of analysis may be disproportionate or because the value has already been included in another class of market benefit. The extent to which additional option value is applied as a class of market benefit will ultimately depend on the extent to which TNSPs seek to utilise it.

Considering the market benefit of any additional option value a transmission investment may have will be guided by RIT-T Guidelines, which the AER will develop and publish in accordance with the transmission consultation procedure. In developing the RIT-T and Guidelines the AER is governed by the following provisions:

- the RIT-T is to be based on a cost-benefit analysis that includes an assessment of reasonable scenarios of future supply and demand if each credible option were implemented compared to the situation where not option is implemented;

⁴⁷ NTP Final Report, p.47

- the RIT-T must not require a level of analysis that is disproportionate to the scale and likely impact of each credible option being considered; and
- the RIT-T requires the TNSP to consider a class of benefits defined as ‘...any additional option value (where this value has not already been included in the other classes of market benefits) gained or foregone from implementing that credible option with respect to the likely future investment needs of the market.’

Consistent with the outcomes of the NTP Review about the appropriate balance between the Rules and the RIT-T and Guidelines, the Draft Rule did not provide detailed definition of the term ‘additional option value’ or specify how it should be quantified, and it did not provide such definitions and guidelines for any of the other classes of market benefits. The provisions have been drafted so that the AER could provide guidance and explanation on how additional option value should be assessed and quantified in the RIT-T.⁴⁸

The Commission considers that the Rules should not provide detailed guidance on how the classes of market benefits should be quantified and that this should be a matter more appropriate for the AER to address in developing the RIT-T and Guidelines. The Commission expects that a deeper understanding of the concept and the potential for its application in the assessment of transmission investment will result from the consultation on the RIT-T and Guidelines required under 5.6.5B(d). As the AER has indicated, consideration of the final form of the emissions trading scheme should also be informative in this respect.⁴⁹ The Commission also expects the National Transmission Planner to provide further information on the additional option value concept and its potential through its development strategies outlined in the National Transmission Network Development Plan.⁵⁰ Relatedly, the AER’s submission to the Draft NTP Report noted that the National Transmission Planner’s ability to make submissions on regulatory test analyses will act as a discipline on any misuse of provisions relating to options value.⁵¹

For these reasons, the Commission has not included in the Rule as Made any amendments to clause 5.6.5B(c)(4)(viii).

⁴⁸ NTP Final Report, p.47 This intent responded to the AER’s earlier preference that the Rules set high level principles regarding the coverage of the RIT-T, with the prescription to be added by RIT-T and details on application and dispute resolution by the guidelines themselves. The AER stated that the concept of option value may be clarified in guidelines. [AER 2008, National Transmission Planning Arrangements – Response to AEMC Draft Report, 30 May 2008, p.9-10 (AER NTP report submission)]

⁴⁹ AER NTP report submission, p.9

⁵⁰ NTP Final Report, p.47

⁵¹ AER NTP report submission, p.9

6.1.2 Regulatory test for joint planning

In its submission Energex stated that clause 5.6.5C(a) does not address joint planning other than in the context of planning to address issues in the distribution network.⁵² Further to this issue AEMOT submitted that the current drafting of the RIT-T Rules provides a different test for investment to address needs in either or both the distribution and transmission networks. AEMOT indicated that it is essential that the core of the test applying to each is the same. This needs to be addressed as soon as practicable to avoid inefficient outcomes and practical problems.⁵³

The Commission notes these concerns and considers that this matter is best dealt with as part of the Commission's current Review of National Framework for Electricity Distribution Network Planning and Expansion. As directed by the MCE, the Commission is currently undertaking this Review which includes, as key elements, the consideration of the distribution network regulatory test and joint planning issues. The Commission considers consultation on these issues as part of this Review on distribution network planning and expansion is the best way to consider and resolve issues relating to the regulatory test for joint planning.

As required by the terms of reference for the Review, the Commission will be developing recommendations and giving consideration to achieving consistency, to the extent appropriate, with the electricity transmission planning framework. One of these outcomes will be ensuring efficient joint planning of transmission and sub transmission networks and the delivery of an appropriate level of reliability and service quality at each transmission-distribution connection point. The Commission's draft report for this Review will include draft recommendations on a Regulatory Investment Test for Distribution (RIT-D) and considerations related to the joint planning arrangements.

The draft report for this Review will be published for consultation in July 2009 prior to the recommendations being finalised and submitted to the MCE by 30 September 2009.

6.1.3 Market benefits that are not material

Some stakeholders have expressed concern regarding clause 5.6.5B(c)(6) of the Draft Rule. In the AER's view, the clause may overly restrict a TNSP's ability to exclude a class of market benefits which is not material.⁵⁴ Frontier Economics for the AER stated that it is unclear how the TNSP could 'show':

- that a particular class of benefits will not affect the outcome of the assessment of each credible option as required by clause 5.6.5B(c)(6)(iii), without actually doing the analysis; or

⁵² Energex submission, p.2

⁵³ AEMOT submission, p.3

⁵⁴ AER submission, p 5.

- that the cost of undertaking the analysis to quantify the market benefit of each credible option is disproportionate, as required by clause 5.6.5B(c)(6)(iv), without ascertaining the size of the relevant benefit.⁵⁵

In its submission Energex suggested that clause 5.6.5B(c)(6) may reverse the onus established in clause 5.6.5B(c)(5), which provides that there be a quantification of all classes of market benefits which are determined to be material in the TNSP's reasonable opinion.⁵⁶ Energex sought clarification that the assessment need not be supported by detailed analysis and quantification and preliminary assessment could be qualitative in nature.⁵⁷ The AER suggested that the TNSP's analysis should quantify a class of market benefits proportionate to the expected materiality of the benefit of the outcome.⁵⁸ Grid Australia suggested a focus on whether the outcome of the assessment under the RIT-T is affected by considering a class of market benefits.⁵⁹ In Grid Australia's view the outcome of the RIT-T assessment is of importance rather than the assessment of an individual option. Accordingly, where the inclusion of a class of market benefit does not affect the outcome of the RIT-T assessment, then that class of market benefit would not be considered material.⁶⁰

As stated in the NTP Final Report, and summarised in chapter 4 above, the Commission concluded that RIT-T should include a quantification of all classes of market benefits which are determined to be material. All classes of market benefits shall be considered to have material relevance unless:

- a detailed explanation is presented as to why a particular class of benefit is not expected to affect the outcome of the assessment stage; or
- the cost of undertaking the analysis to quantify the benefit is demonstrated to be disproportionate.

The project specification stage would provide an opportunity for TNSPs to consult on their reasoning in this regard, prior to finalising the analytical specification of an individual RIT-T assessment. In making its judgement on whether a class of benefit is material the TNSP should have regard to the views of market participants raised during the project consultation process. The views of stakeholders on these matters would go some way to addressing the concerns raised by stakeholders.

Having said that, it is not the Commission's intention to impose an unnecessary or impractical burden on TNSPs without adding value to the decision making process. In line with good regulatory practice and promoting efficient outcomes, the intent of

⁵⁵ AER submission, attachment, p.2. Frontier Economics suggest that a TNSP should only be obliged to consider a class of potential benefits as relevant if at least one participant considers it to be material, and provides sufficient supporting evidence such that a reasonable TNSP would take account of the benefit. However, this would shift the burden of proof demonstrating the materiality of benefits from the TNSP to the proponent. This is contrary to the policy intent described in the NTP Final Report and the MCE's subsequent Rule change request.

⁵⁶ Energex submission, p.1

⁵⁷ Energex submission, p.1

⁵⁸ AER submission, p.5

⁵⁹ Grid Australia submission, p.3.

⁶⁰ Grid Australia submission, p 3

clauses 5.6.5B(c)(6) is to provide a mechanism to reduce unnecessary administrative burden on market participants applying the RIT-T.

In response clause 5.6.5B(c)(6) of the Rule as Made has been amended to provide that a TNSP must consider all classes of market benefits as material unless it can provide reasons why:

- a particular class of market benefit is not likely to affect materially the outcome of the assessment under the RIT-T; or
- the estimated cost of undertaking the analysis is likely to be disproportionate.

6.1.4 Benefits associated with reliability augmentations

In its submission the AEMOT expressed the view that clause 5.6.5B(c)(7) introduces a different treatment between reliability augmentations and market benefits, thereby undermining the amalgamation of the two limbs of the current regulatory test. AEMOT suggested that clause 5.6.5B(c)(7) is unnecessary as clauses 5.6.5B(c)(5) and (6) only require TNSPs to quantify material matters and to undertake analysis that is commensurate with the decision being made.⁶¹ Similarly, Frontier Economics for the AER, suggested that this clause be deleted.⁶² Frontier Economics for the AER noted that it is unclear what is meant by “the minimum standard required by a reliability augmentation”, as reliability augmentations are not explicitly required to deliver any market benefits and as the standards are not couched in terms of a certain level of market benefits. Frontier Economics for the AER interpret “minimum standard” as referring to the level of market benefits delivered by the least-beneficial option that met the standard. This would require the market benefits of all options to be calculated to determine which option had the smallest market benefits, thereby making the clause redundant.⁶³

In the AER supplementary submission, Frontier Economics for the AER explained in more detail what it considers to be problems with this clause. Frontier Economics for the AER stated that it is not possible to calculate the market benefits of an option above the ‘minimum standard’ without actually calculating the entire market benefits of all the options. Therefore, in its view, there is no purpose in trying to limit the quantification of market benefits only to those above a ‘minimum standard’, since no such thing actually exists and it is better simply to require all market benefits to be calculated.⁶⁴

Clause 5.6.5B(c)(7) reflects the recommendation in the NTP Final Report that the existing least cost approach to projects intended solely to meet mandatory

⁶¹ AEMOT submission, p.3

⁶² AER submission, attachment, p.3

⁶³ AER submission, attachment, p.3

⁶⁴ AER supplementary submission, attachment, p.3-4. While the Commission acknowledges the potential for varying benefit associated with reliability attached to different options delivering the minimum standard in any situation, as noted by Frontier Economics, the clause only requires that the additional benefit for that option needs to be calculated.

obligations be maintained, but allowing for the incorporation of additional benefits where relevant. The intent behind the provision is that where deterministic reliability standards exist, only the incremental reliability benefits delivered in addition to the level of reliability required by the standard should be quantified for the purpose of the RIT-T. This would avoid imposing an unreasonable and costly burden without adding value to the analysis and could lead to a lengthening in the planning process driven by reliability concerns.

Clause 5.6.5B(c)(7) provides that the RIT-T must limit the quantification assessment in respect of two classes of market benefits (changes in involuntary load curtailment and changes in involuntary load shedding) if the credible option is meeting a mandatory reliability obligation. In these circumstances, the quantification assessment would only apply insofar as the market benefit delivered by the credible option is above the minimum standard required by the mandatory reliability obligation.

For example, a TNSP which identified two credible options which both only meet the minimum reliability standard, option A which costs \$5m and option B which costs \$7m, would conclude that option A is preferred on a least cost basis. However, where a credible option delivers above the minimum standard of reliability, the clause requires a TNSP to quantify all material benefits associated with that option. For example, a TNSP which identified two credible options, option A meeting the minimum reliability standard at a cost of \$5m and option C providing reliability above the minimum standard at a cost of \$8m, would need to quantify the reliability benefits of option C, including those associated with meeting the minimum reliability standard. Where the additional benefit of option C exceeding the minimum reliability standard is greater than the difference between the costs of the two options, the TNSP would conclude that option C is preferred.

The Commission believes the clause in its current form achieves the intent demonstrated in the examples above and can be applied. The Commission agrees that the need to meet a deterministic standard does not imply a particular minimum level of market benefits but also holds it possible to calculate the market benefits of an option above the “minimum standard” without actually calculating the entire market benefits of all the options. Its application would be further enhanced through the development of the RIT-T test and guidelines.

For these reasons, clause 5.6.5B(c)(7) is retained in the Rule as Made.

6.1.5 Scope of the RIT-T

In its submission, AEMOT raises two issues in relation to the scope of the RIT-T.

6.1.5.1 RIT-T and prescribed transmission services

In its submission, AEMOT suggested that there be a more explicit link between the RIT-T and *prescribed transmission services*. While the Draft Rule excludes both negotiated services and funded augmentations from the RIT-T through exclusions set out in clauses 5.6.5C(d) and 5.6.5C(a)(11), it is not clear whether augmentations over

the cost threshold which are intended to provide *prescribed transmission services* and hence have their costs recovered from customers should pass the RIT-T.⁶⁵ The RIT-T should also be applied to decisions to convert assets from *negotiated transmission services* to *prescribed transmission services*. AEMOT is of the view that the explicit link is necessary:

“...[s]ince there is no competitive restraint on the costs that are passed onto electricity consumers for regulated services, it is essential that some economic rigour be applied to investment that are to provide prescribed services.”⁶⁶

The Commission is of the view that the scope of the RIT-T, as set out in clause 5.6.5C, is clear and that the link requested by AEMOT is not necessary and could actually have the opposite effect from that intended by AEMOT. In the Commission’s view, it is preferable to provide that the RIT-T is applicable to all transmission investment options proposed by a TNSP except for a limited number of cases. Further, the Commission considers that the provisions of chapter 6A of the Rules provide a discipline and constraint on the costs that are passed on to electricity consumers.

Converting assets from providing *negotiated transmission services* to *prescribed transmission services* is a complex issue and outside the scope of this Rule Change Proposal. To be considered further by the Commission, this issue would need to be the subject of a separate Rule change request.

6.1.5.2 RIT-T and negotiated transmission services

AEMOT stated that the amendments arising out of this Rule Change Proposal maintain in place present arrangements whereby an investment to supply *negotiated transmission services* does not require any scrutiny or public consultation. Augmentations to the shared network can impact on secure transfer limits. Detriments to transmission network users should be identified and material inter-network impact considered. Accordingly, clause 5.6.5B should also apply to *negotiated transmission services*.⁶⁷

The application of the RIT-T to negotiated transmission services raises a myriad of issues which would require significant consultation and consideration. The Commission is of the view that this suggestion is outside the scope of this Rule Change Proposal. To be considered further by the Commission, this matter would need to be the subject of a separate Rule change request.

6.1.6 Use of certain defined terms

Submissions identified some opportunities to clarify the expression of agreed policy intent in the Draft Rule. The most significant of these are listed below.

⁶⁵ AEMOT submission, p 2

⁶⁶ AEMOT submission, p 2

⁶⁷ AEMOT submission, p 3

- GridAustralia noted that the term ‘power system security and reliability standards’, which is used in a number of places, is a defined term under the Rules. In Grid Australia’s view it is not appropriate for network planning purposes. ⁶⁸
- In the attachment to the AER submission, Frontier Economics noted that clause 5.6.5B(b) and other clauses refer to “reliability augmentation” and that the meaning of this expression in the Rules is restricted to a transmission network augmentation. ⁶⁹

The Commission has carefully analysed the Draft Rule for its workability and application. It has made a number of amendments which address the concerns raised by Grid Australia and the AER above.

The Draft Rule’s references to “*power system security and reliability standards*” have been removed. The Rule as Made more directly refers to corrective action to address the technical “limitation” problems notified under clause 5.6.2(e)(2).

Clauses 5.6.2 and 5.6.5A and amendments to the definition of “new network investment” now clarify the scope of the current Regulatory Test’s application to proposed investment by a TNSP. A TNSP’s proposed investment for corrective action to address technical limitations for a distribution network and notified under clause 5.6.2(e)(2) will be subject to the Regulatory Test. This more accurately reflects the “limitations” being notified.⁷⁰ Under the regulatory test, the proposed corrective action may involve a network or non-network solution.

The definition for “new network investment” has been amended to retain the existing lowest cost threshold for transmission investment for relevant distribution related purposes which is subject to the regulatory test. That cost threshold will be included in the AER’s reviews of cost thresholds under clause 5.6.5E.

The Draft Rule’s references to “*reliability augmentation*” have been removed. The Rule as Made adopts a new definition “reliability corrective action” to cover network and non-network solutions. This definition means investment by a TNSP in respect of its transmission network for the purpose of meeting the service standards linked to the technical requirements of schedule 5.1 of the Rules or in applicable regulatory instruments (as defined in Chapter 10 of the Rules). This new definition removes the Draft Rule’s reference to “*reliability augmentation*” and covers network and non-network solutions. The meaning of the new definition is based on the second limb of the current Regulatory Test to minimise any uncertainty for a TNSP on applying the RIT T in the context of meeting reliability obligations.

With the assistance of this new definition, clauses 5.6.5B and 5.6.5C now clarify the scope of the new RIT-T’s application where the identified need for proposed investment by a TNSP is for “reliability corrective action”.

⁶⁸ Grid Australia submission, p.2

⁶⁹ AER submission, attachment, p.1

⁷⁰ Retaining the same name for this definition avoids the need to amend clause 5.6.5A and so item [12] in the draft Rule has been deleted.

6.2 Civil penalty provisions

The Rule as Made replaces the existing clauses 5.6.2(e), 5.6.2(f), 5.6.2(h), 5.6.2(j) and 5.6.2(k1) with new provisions. Clauses 5.6.2(e), 5.6.2(f) and 5.6.2(h) are currently classified as civil penalty provisions under the *National Electricity (South Australia) Regulations*. The Rule as Made also introduces new clauses, being clauses 5.6.2(e1), 5.6.2(e2), 5.6.2(g1).

The existing provisions have been classified as civility penalty provisions because the provisions are in place to protect systems security and reliability through appropriate network planning. The rationale for these provisions being classified as civil penalty provisions is given in the introduction to Schedule 5.1 of the current Rules.

The key intention of existing clauses 5.6.2(e) - (h), as amended, is to ensure that a Network Service Provider must:

- fully describe the quantity and quality of network services which it agrees to provide to a person under a connection agreement in terms that apply to the connection point as well as to the transmission or distribution system as a whole;
- ensure that the quantity and quality of those network services are not less than could be provided to the relevant person if the national grid were planned, designed and operated in accordance with the criteria set out in this clause S5.1.1 and recognising that levels of service will vary depending on location of the connection point in the network; and
- observe and apply the relevant provisions of the system standards in accordance with schedule 5.1.

Clauses 5.6.2(e1), (e2) and (g1) clarify that the existing provisions are shared jointly by TNSPs and DNSPs where the investment is a dual function asset and are requirements upon the DNSP where the investment is in corrective network augmentation, non-network alternatives, or modifications to connection facilities. As the new provisions are only clarifications of an existing and established policy intent additional consultation is not required.

The Commission regards the amendments to clauses 5.6.2(e), 5.6.2(f) and 5.6.2(h) made by, and the new provisions included as a result of, the Rule as Made as consistent with the original intention of these provisions. On this basis the Commission will:

- notify the MCE that clauses 5.6.2(e), 5.6.2(f) and 5.6.2(h), have been amended, but recommend that these clauses should remain classified as civil penalty provisions as the provisions still relate to network planning; and

- seek the MCE's agreement that new clauses 5.6.2(e1), (e2) and (g1) be made civil penalty provisions as they clarify market participants' obligations regarding network planning and are to be read with the other provisions in clause 5.6.2.⁷¹

Under the NEL, civil penalty provisions in the Rules may only be created with the MCE's agreement and may be included by means of including the number of the relevant provision in the Regulations. The Commission notes that these provisions would only have civil penalty consequences upon the relevant amendments to the *National Electricity (South Australia) Regulations* coming into effect.

6.3 Commission's assessment

The Commission has analysed and assessed the issues arising out of submissions made in response to the Draft Rule Determination and the Draft Rule. Outlined below is the Commission's assessment of the Rule as Made (being the Draft Rule amended in the manner suggested in section 6.1 above and Appendix B). This is largely reflective of its assessment of the Draft Rule.

6.3.1 Amalgamation of the reliability and market benefits limbs of the Regulatory Test

Like the Draft Rule, the RIT-T design in the Rule as Made, which amalgamates both reliability and market benefits:

- adequately addresses the issue raised by ERIG and reflected in the MCE terms of reference for the NTP Review;
- ensures that all prospective investments are assessed both on their ability to meet the reliability standards and their ability to deliver market benefits. All projects are assessed in the same manner irrespective of the primary cause of the investment.

6.3.2 Assessment and consultation process

The RIT-T project assessment and consultation process in the Rule as Made ensures the provision of information to market participants and other interested parties in a timely manner on the identified need and potential options to serve that need. The RIT-T process allows for relevant information to be provided for consideration earlier than under the current approach.

This is likely to promote greater consultation with relevant stakeholders, which should help ensure that more potential options are identified (and few efficient options overlooked), considered and quantified in terms of possible market benefits associated with the proposed investment options. The Commission believes this framework will provide a superior and transparent platform for non-network

⁷¹ Refer to section 36 of the NEL.

options to be considered, as well as quantifying the market benefits associated with credible options put forward.

6.3.3 Greater prescription of market benefits and costs

Compared to the current Regulatory Test the Rule as Made provides greater prescription on classes of benefits and costs needed to be considered whilst undertaking an investment assessment process.

This greater prescription in the Rule as Made will improve the consistency and transparency of transmission investment assessment and should, over time, promote more efficient decision making. In addition, the requirement in the Rule as Made to provide information on any classes of market benefits which occur outside the TNSP's region should promote a more strategic national focus for transmission investment which should lead to more efficient outcomes over time.

Furthermore, the specification of an additional market benefits category for option value in the Rule as Made should facilitate a more strategic assessment of projects. This should optimise decision making and improve the efficiency of the transmission investment assessment process.

6.3.4 Scope of projects

Under the Rule as Made projects where the most expensive option is less than \$5 million are exempted from the project assessment process. The Rule as Made also clarifies the treatment of joint augmentation/replacement projects and reconfiguration investments, and provides an exemption for urgent and unforeseen investments. This recognises the appropriate balance between ensuring that the appropriate range of projects are subject to a robust economic assessment and the timing and resources required to conduct the planning process.

6.3.5 Selection of market benefits and costs to be quantified

The Rule as Made allows the TNSP in each application of the RIT-T to identify and consult on which classes of benefits and costs that are likely to be materially relevant to the decision being made, thus allowing the TNSPs to apply judgment, supported by reasoning and analysis, to justify the specification of the RIT-T in any given case, with stakeholders given the opportunity to comment. This process should ensure that a proper assessment is undertaken on market benefits and costs whilst at the same time it seeks to reduce, where possible, the regulatory burden faced by TNSPs, as such reflecting good regulatory practice.

6.3.6 Exemption from project assessment draft report stage

The Rule as Made permits a possible exemption from the project assessment draft report stage. This exemption should help prevent straightforward investment from being unnecessarily delayed where appropriate, thus reducing the regulatory burden faced by TNSPs and, as a result, promote good regulatory practice. The Rule as

Made provides sufficient clarification and obligations to prevent this exemption from being inappropriately used.

6.3.7 Rule making test

As set out in the section 5.4 above, in the Draft Rule Determination, the Commission stated that it was satisfied that the Draft Rule will or is likely to contribute to the achievement of the NEO, taking into account the revenue and pricing principles. It set out in detail the key elements of the Draft Rule and explained its merits.

The Rule as Made is similar to the Draft Rule. The Rule as Made incorporates amendments to the Draft Rule which clarify the meaning and application of the Rule and better reflects the principles from the NTP Final Report. The amendments have arisen out of submissions on the Draft Rule and Draft Rule Determination as well as the Commission's own review and analysis of the Draft Rule. The amendments do not change the substance of the Draft Rule, as can be seen from section 6.1 above and Appendix B.

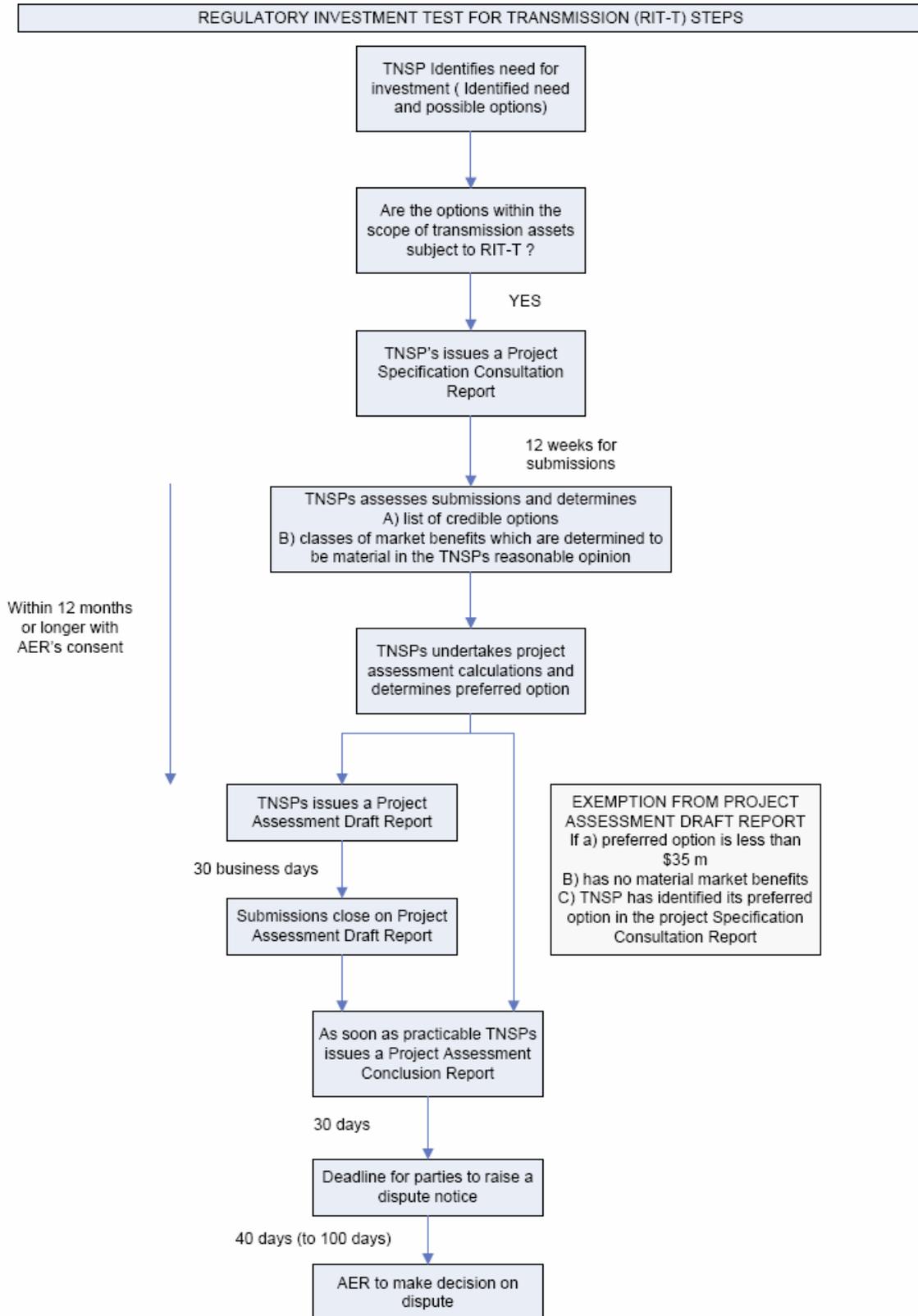
Accordingly, the Commission is satisfied that the Rule as Made will or is likely to contribute to the achievement of the NEO, taking into account the revenue and pricing principles. The Rule as Made will promote the efficient investment in electricity services for the long term interests of consumers of electricity for the same reasons given for the Draft Rule. They are as follows:

- the amalgamation of the reliability and market benefits limbs of the Regulatory Test will or is likely to optimise the decision making process in relation to transmission planning by promoting dynamic and allocative efficiency. By including the assessment of market benefits, the RIT-T should promote more efficient investment over time;
- greater prescription of market benefits and costs and how they should be assessed should improve the consistency and transparency across transmission investment assessment and should, over time, promote more efficient decision making;
- requiring a project specification consultation report should improve the transparency and application of the RIT-T which will, or is likely to, promote more efficient outcomes over time;
- a substantial increase in the amount of consultation undertaken should unearth a greater number of efficient investment options and therefore lead to more efficient outcomes overtime; and
- exemptions in certain cases from the project assessment draft report stage promotes the efficient use of resources where appropriate, thus reducing the regulatory burden faced by TNSPs and as a result promotes good regulatory practice.

The Rule as Made is also consistent with the revenue and pricing principles because, through greater consultation and more prescription of the costs and benefits to be

assessed, the transmission planning process should identify more efficient investment and contribute to providing a reasonable opportunity to recover at least efficient costs. The Rule as Made should also address the risk of the potential for under and over investment by the TNSP and the potential for under or over utilisation of the transmission network.

Appendix A Regulatory Investment Test for Transmission (RIT-T) Steps



This page has been intentionally left blank

Appendix B Submissions and responses

Draft Rule Clause	Stakeholder	Submission	Commission's Response
REGULATORY TEST			
5.6.2(e)(3) and (e1) and (e2)	Grid Australia, p.3	“The proposed drafting of these clauses is difficult to follow. Grid Australia has proposed alternative drafting that it considers improves the clarity of what is being required.”	These clauses have been redrafted to improve clarity by relying on the existing clauses' language of undertaking “appropriate corrective action” more closely and by simplifying the wording to avoid having to specify ‘augmentations’, as there may be other “network” solutions. The amendments clarify that a DNSP must undertake the regulatory test process if proposing network or non-network action to address the limitations that it notified. The amendments also clarify that before the corrective action commences operation, the relevant NSP must consult.
COST BENEFIT ANALYSIS			
5.6.5B(c)(1)	AER 1 Frontier Economics Attachment, p.1	“This clause creates some ambiguity by setting up the cost-benefit analysis to compare the state of the world (SOTW) with a credible option in place against a SOTW in which “no option is implemented.” However, the base case SOTW should presumably include private generation and DSM projects that participants find it worthwhile to develop on the basis of market signals. ... Drafting needs to clarify that market-driven projects of any type should be incorporated in the relevant base case.”	This clause should be read in conjunction with other provisions, especially clause 5.6.5D, describing the identification of a credible option. The detail of the required cost benefit analysis is more appropriately dealt with as part of the process to develop the RIT-T and associated guidelines by the AER under clauses 5.6.5B(a) and (d), bearing in mind the requirement of 5.6.5(c)(2) that the level of analysis should not be disproportionate to the scale and likely impact of each credible option. The Commission has concluded that no changes to this clause are required.
5.6.5B(c)(4)	AER 1 Frontier Economics Attachment, p.2	“This clause refers to “net economic benefits” in the first line. However, this clause does not deal with the costs of the relevant option (this is dealt with in (c)(8)), so the use of “net” could be misleading. It is suggested that the first part of this clause be deleted”.	For consistency with other provisions in clause 5.6.5B, the phrase “in assessing the present value of net economic benefits to all those who produce, consume and transport electricity in the <i>market</i> ,” is redundant. It has been deleted.

Draft Rule Clause	Stakeholder	Submission	Commission's Response
5.6.5B(c)(4)(v)	AER 1 Frontier Economics Attachment, p.2	"There appears to be no good reason why market benefits [considered in the RIT-T] should be restricted to changes in transmission losses, so "transmission" should be replaced with "network"."	The Commission agrees that any benefits delivered by changes in network losses are relevant to the RIT-T, including those that may be delivered by the distribution network, where the level of analysis is not disproportionate (clause 5.6.5(c)(2)), and the benefits are determined to be material (clause 5.6.5(c)(5)) in this clause the term "transmission" has been replaced by the term "network".
REFERENCE TO 'ASSETS' AND 'TRANSMISSION INVESTMENT'			
5.6.5A	AEMOT, p.3 ^a	"... [T]he terminology in the regulatory test [referring to] 'assets' and 'transmission investment' should be reviewed and in many places should be replaced with references to 'services' and 'options (network and non-network)' in line with the competitive neutrality principles underlying the RIT-T. This would enable services provided by network assets to be compared equally with non-network alternatives."	The Commission notes the reference to "new distribution network investments or transmission investment designed to ensure that a distribution network meets the level require" in clause 5.6.5A does not fully reflect the intent of RIT-T. The amendments to clause 5.6.5A have been made to account for the fact that the current Regulatory Test still applies to distribution.
OPTION VALUE			
5.6.5B(c)(4)(iv)(D)	Grid Australia, p.2	"[This clause] relates to 'differences in the timing of transmission investment', i.e. changes in costs resulting from the deferral or bringing forward of transmission investment, which may be the TNSP's own investment. As a result, the current qualifier 'other than the Transmission Service Provider's [costs]' is inappropriate for (iv)D. Grid Australia has therefore proposed alternative drafting that separates out the requirement in 6.5B9c(4)(iv)(D)."	The Commission agrees that benefits delivered by changes in the parties' costs due to differences in the timing of transmission investment may include benefits delivered by the TNSP's own investment. The Rule as Made now reflects this position.
OTHER CLASSES OF BENEFIT			

^a AEMOT 2009, AEMOT Response to the Draft Rule Determination for the Regulatory Investment Test for Transmission, 15 May 2009

Draft Rule Clause	Stakeholder	Submission	Commission’s Response
5.6.5B(c)(4)(ix)(A)	AER 1, p.4-5	It is not clear what is intended to be captured by clause 5.6.5B(c)(4)(ix)(A) because the market benefits are already set out in clause 5.6.5B. Additional market benefits can also be created through 5.6.5B(c)(4)(ix)(B). Also, “it is not clear how this clause is intended to operate. The current drafting suggests that a TNSP can approach the AER on an ad hoc basis for a determination that a new class of benefit can be considered in the assessment of a particular project. ... [T]his approach may lead to a disorderly and disjointed approach to creating new classes of market benefits.”	Clause 5.6.5B(c)(4)(ix)(A) provides an opportunity for TNSPs to suggest new classes of market benefits. To prevent some of the operational issues suggested by the AER the clause has been modified to provide that other classes of benefits should only be introduced prior to the preparation of a project specification consultation report. This ensures the orderly introduction of other benefits into the test and allows for consultation on their materiality through the process required by clause 5.6.6(g). The requirement that other classes of market benefit are agreed by the AER “in writing” has been added to clarify the process.
5.6.5B(c)(8)(iv)	Energex, p.2	“... [T]here should be symmetry in the ability of TNSPs to raise additional categories of costs and benefits of the AER’s consideration and that sub-clause (c)(8)(iv) should mirror sub-clause (c)(4)(ix) in its operation.”	The Commission agrees that this provision should be consistent with clause 5.6.5B(c)(4)(ix). This includes the requirement that other classes of benefit only be introduced “prior to the date in which the TNSP prepares a project specification consultation report”.
ESTIMATING MARKET BENEFITS OUTSIDE THE REGION			
5.6.5B(c)(10)(iii)	Grid Australia, p.4	“... [A]ny guidance on calculating benefits that arise outside of a TNSP’s region would already be provided under (c)(10)(i), which relates to the method of estimating benefits in general. Subparagraph (c)(10)(iii) is therefore unnecessary. As currently drafted, it is also potentially confusing as it does not make clear that the estimation of benefits should be in aggregate across all regions.”	The provision requires the RIT-T to specify the methods(s) for estimating market benefits that may occur outside the region in which the TNSP is located. The Commission is of the view that the provision clarifies and confirms what is required. Therefore it has been retained.
EXTERNALITIES			
5.6.5B(f)(3)	AER 1 Frontier	“It is not clear why this clause is required. There is only one	The Commission considers that it is important that the RIT-T

Draft Rule Clause	Stakeholder	Submission	Commission's Response
	Economics Attachment, p.3	other reference to externalities in the whole of the Draft Rule (clause 5.6.6A(b)(1)) and it is not clear why that is required either."	provides guidance in relation to externalities to ensure that the various instruments that value carbon are treated appropriately. ^b The provision has been retained but has been amended to require that the <i>guidelines</i> provide guidance and worked examples on "what may constitute an externality under the <i>regulatory investment test for transmission</i> for the purposes of clause 5.6.6A(b)(1)".
REFERENCE TO 'PARTICULAR LOCATIONS'			
5.6.5C(a)(2)	Grid Australia, p.5	"The reference to 'particular locations' is unnecessary and potentially confusing, given that it is only necessary for an investment to have a positive net market benefit overall to satisfy the RIT-T, rather than a net benefit in a particular location."	The Commission agrees that an overall positive net market benefit is the intention of the RIT-T and that consequently the provision "in particular locations" does not serve to clarify the Rule. The Rule as Made removes this sub paragraph entirely.
EXEMPT INVESTMENTS			
5.6.5C(a)(3) to (11)	Grid Australia, p.5	"The circumstances described in sub-clauses (3) to (11) are all exceptions to the general requirement in 5.6.5C(a)(1) to apply the RIT-T. They should therefore be renumbered as (i) to (ix), following the drafting in 5.6.5(a) that highlights that there are exceptions."	The Commission notes that sub-clauses (3) to (11) contemplate exceptions to the <i>identified need</i> defined by the requirements of both 5.6.5C(a)(1) and (2). The Rule as Made now renumbers the provisions as (1)-(9)
5.6.5C(a)(4)	Grid Australia, p.5	"... [T]he current sub-clause (4) incorporates wording which is substantively the same as the definition of <i>credible option</i> , and so it would be clearer to use the term ' <i>credible option</i> ' here."	The Commission agrees that clarity would be served by amending 5.6.5C(a)(4) to read "the estimated capital cost of the most expensive <i>credible option</i> is less than \$5 million (as varied in accordance with a <i>cost threshold determination</i>)" and that this would not change the application of the Rule.

^b AEMC 2008, National Transmission Planning Arrangements, Final Report to MCE, 30 June 2008, Sydney, p.61-2

Draft Rule Clause	Stakeholder	Submission	Commission’s Response
5.6.5C(a)(6)	AER 1, p.6	“The current drafting suggests that a TNSP can exclude a reconfiguration project from assessment under the RIT-T (even if its estimated cost is greater than \$5 million) if it has no material impact on network users. It is unclear how as TNSP should determine whether a reconfiguration has material impacts on network users and why a different cost threshold is required for these assets.”	The Commission considers that it would represent an unnecessary regulatory burden to require assessment under the RIT-T for reconfiguration investments which have, or are reasonably considered to have, no material impact on <i>network users</i> , even if these investments are over \$5 million. Such investments are similar to like-for-like replacement where no other options exist. Given the very wide variety of circumstances where this clause may apply, the Commission regards that the clause makes appropriate provision for the TNSP to reasonably determine, given the information available to it at the time, whether a reconfiguration has material impacts on network users, ie. impact transfer capability.
5.6.5C(a)(11)	AER 1 Frontier Economics Attachment, p.3	“This clause should refer only to those investments whose costs are recovered <u>totally</u> through negotiated service charges, as there may be assets that provide both prescribed and negotiated services that should not be exempted from the RIT-T.”	To clarify that this provision is intended to capture only those investments that are fully funded through negotiated service charges, the provision has been amended to read: “the cost of the proposed <i>transmission</i> investment is to be fully recovered through charges in relation to <i>negotiated transmission services</i> .”
URGENT AND UNFORSEEN INVESTMENT IN THE ANNUAL PLANNING REPORT			
5.6.5C(c)	Energex, p.2	“... [T]he timing for publication of the Annual Planning Report (APR) may result in the retrospective identification of urgent and unforeseen transmission investment.”	The provision has been amended to provide retrospective identification of an investment addressing an urgent and unforeseen <i>network issue</i> .
	Grid Australia, p.4	“Under 5.6.2C(b)(1) the investment required to address an urgent and unforeseen network issue must be required to be operational within 6 months of the TNSP identifying the proposed need. By definition, the TNSP’s Annual Planning Report will only be published every 12 months. As a result, the investment may have been made before the next Annual Planning Report is published.”	

Draft Rule Clause	Stakeholder	Submission	Commission's Response
INCLUSION OF FUNDED AUGMENTATION			
5.6.5C(d)	Grid Australia Mark-up of Rule, p.18 ^c	"This provision (d) does not appear to add anything over and above the existing provisions in Chapter 6A which already provide incentives for efficient investment. Suggest deleting."	The provision clarifies that, consistent with the National Electricity Objective, a planned, least cost approach to investment is required (as detailed elsewhere in the Rules) despite any exemption from the RIT-T.
CLASSIFYING A CREDIBLE OPTION			
5.6.5D(a) & (b)	AER 1 Frontier Economics Attachment, p.4	"These clauses could be combined to improve clarity."	Clarity is served by establishing separate requirements that firstly define a <i>credible option</i> and secondly specify the considerations that must be taken into account when classifying <i>transmission</i> investment options as <i>credible options</i> . Therefore the provisions have been retained unamended.
5.6.5D(b)	AER 1 Frontier Economics Attachment, p.4	"The intent of clause (b) is unclear. Specifically, it is unclear whether the AEMC wishes the TNSP to have regard to the matters in (1)-(8) in determining whether an option is a "credible option" or whether the AEMC wishes the TNSP to disregard these matters."	The clause clearly states that matters in (1)-(8) need to be taken into account.

^c Grid Australia 2009, Draft Rule Determination: National Electricity Amendment (Regulatory Investment Test for Transmission), attached mark-up of the Draft Rules, 13 May 2009

Draft Rule Clause	Stakeholder	Submission	Commission's Response
5.6.5D(b)(7) 5.6.5D(b)(8) 5.6.5D(c)	AER 1, p.7	<p>“While it is important that a TNSP should not bias projects based on things such as energy source, technology and ownership, the AER is uncertain as to how the “without” bias qualifier is intended to apply to:</p> <ul style="list-style-type: none"> • whether a credible option has a proponent (clause 5.6.5D(b)(7), or • to “any other” factor which the TNSP reasonably considers should be taken into account (clause 5.6.5D(b)(8)). <p>The “without bias” qualifier should not apply to either of these factors and instead these should just be factors that the TNSP must consider.”</p>	<p>The intent of these clauses is that the TNSP take into account all factors listed from 5.6.5D(b)(1)-(6) when classifying <i>transmission</i> investment options as <i>credible options</i>. The Commission considers that this will give sufficient protection for TNSPs to dismiss unrealistic or insubstantial alternatives, while also ensuring that realistic and well-defined alternatives are given due consideration. Whether an option has a proponent will be a factor for consideration in assessing possible options, but will not in itself exclude an option from being a credible option.^d The TNSP may also take into account any other reasonable factor. The provision has been amended to clarify the expression of this policy intent. The reference to “without bias” has been removed because it may cause confusion.</p>
	AER 1 Frontier Economics Attachment, p.5	<p>“This clause is unnecessary regardless of the correct interpretation of clause (b) above – it either potentially contradicts with or reinforces clause (b)(7). The main priority is to clarify the meaning of (b).”</p>	
	AER 1, p.7	<p>“It is also unclear how clauses 5.6.5D(b)(7) and 5.6.5D(c) are intended to interact with 5.6.6(l).”</p>	
REVIEW OF COST THRESHOLDS			

^d AEMC 2008, National Transmission Planning Arrangements, Final Report to MCE, 30 June 2008, Sydney, p.55

Draft Rule Clause	Stakeholder	Submission	Commission's Response
5.6.5E(a) 5.6.5E(c)(1)	Grid Australia, p.5	"... [T]he wording 'need to be changed to maintain the <u>value</u> of the cost thresholds over time' be replaced by 'need to be changed to maintain the <u>appropriateness</u> of the cost thresholds over time.' [as] 'Value' could be interpreted as the absolute value of the cost thresholds (i.e. \$5 million in the majority of cases)."	The intent of these clauses is to require the review of cost value by the AER every three years. The review would allow for a number of indices to be used and for market consultation to guide which is the most appropriate. ^e In order to ensure clarity the term 'value' has been replaced with 'appropriate cost value'.
RIT-T PROCEDURES			
5.6.6(c)(5) and (6)	AER 1 Frontier Economics Attachment, p.5	"The intended role of these clauses is unclear. ... It is also not clear how the TNSP is meant to have information about these other options prior to releasing the project specification consultation report so as to satisfy the requirements in these clauses. All that the TNSP should be required to provide is the details in part (3) regarding the technical characteristics of the required solution."	The intent of these clauses is to require TNSPs to assess the material relevance of each class of market benefit for each credible option at the project specification consultation stage. This will help to ensure that all potential options are identified and considered and will enable market participants to inform the TNSPs on the extent of possible market benefits associated with the proposed investment. This ensures that the key inputs into the project assessment are subject to consultation, which will help to improve the application of the assessment and promote transparency. ^f To avoid any potential misunderstanding regarding addressing 'all possible' credible options, the clause will be amended to require a TNSP to provide information on credible options of which it is aware.
	AER 1 Frontier Economics Attachment, p.5	"... [T]here is no need to preface references to "credible option(s)" with "possible"."	Any credible option will also be possible and therefore the term is superfluous, the term 'possible' has been deleted from these clauses.
5.6.6(d)	Energex, p.2	"Places an onus on the TNSP to publicly provide information separate to that which is contained in the project specification report. ENERGEX suggests that the information required for	The purpose of the project specification report is to enable market participants to comment on the range of materially relevant costs and benefits and the range of credible options. All information relevant to

^e AEMC 2008, National Transmission Planning Arrangements, Final Report to MCE, 30 June 2008, Sydney, p.59

^f AEMC 2008, National Transmission Planning Arrangements, Final Report to MCE, 30 June 2008, Sydney, p.53

Draft Rule Clause	Stakeholder	Submission	Commission's Response
		inclusion in the project specification report is itself designed to assist interested parties to engage constructively in the consultation process. Given this, the benefit of a broad requirement to provide additional information is unclear".	this, as specified in clause 5.6.6(c)(6), must be given in the report. All <i>interested parties</i> have the opportunity to make submissions in response to the project specification report and to dispute the resultant conclusion in relation to the application of the RIT-T, as provided for at clause 5.6.6A(a)(1). The Commission concludes that this is sufficient incentive for TNSPs to provide relevant preliminary or supplementary information to assist interested parties to engage constructively in the consultation process without explicit provision. Clause 5.6.5(d) has been deleted.
	Grid Australia, p.3	"All the substantive matters that the TNSP is required to cover in the report are already specified in clause 5.6.6(c). As a result, the additional requirement in sub-paragraph (d) adds no substantive value. At the same time the additional requirement places a legal obligation on TNSPs to provide the specified information, without providing sufficient certainty as to what information must be provided. As a result the drafting exposes TNSPs to inadvertent breaches of this requirement".	
5.6.6(j)	Grid Australia Mark-up of Rule, p.24	The requirement "within 5 <i>business days</i> of the <i>project assessment draft report</i> " appears misplaced.	The intent of this provision is to ensure that the <i>project assessment draft report</i> is made available to interested parties within 12 months of the end of the consultation period referred to in paragraph (h). To ensure consistency with clause 5.6.6(e)(1), the requirement has been moved to 5.6.6(n)(1), requiring a TNSP to provide AEMO with a summary of the <i>project assessment draft report</i> with 5 business days of either making the <i>project assessment draft report</i> available or including it in its <i>Annual Planning Report</i> .
5.6.6(k)(4)	Energex, p.2	"The reference to "quantify each class of market benefit and cost" should be amended to "quantify each class of <i>material</i> market benefit and cost" consistent with the terminology applied in sub-clause (3) and clause 5.6.5B(c)(5)."	The clause has been amended to ensure consistency.
5.6.6(k)(9)	Grid Australia Mark-up of Rule, p.28	"This is already required under (k)(3)."	The requirement for a TNSP to provide a quantification of costs for each credible option, including the preferred option, is already made at 5.6.6(k)(3). Therefore this clause has been deleted.
5.6.6(l)	AER 1 Frontier Economics Attachment,	"This clause is confusing because it suggests that a proponent is necessary for a "transmission investment which is a reliability augmentation". However, any such investments	The risks to reliability of supply and potential liability exposure that TNSPs face are such that there must not be a delay to the regulatory process as a result of considering projects for which there is no

Draft Rule Clause	Stakeholder	Submission	Commission's Response
	p.5	would presumably always have a proponent – the TNSP. Rather, it is non-network options that may lack a proponent even though they are commercially and technically feasible.”	proponent. ^g If the preferred option is a reliability corrective action then it must have a proponent. ^h
5.6.6(m)	Energex, p.2	“... [S]ub-clause (m) should be amended to clarify that a TNSP is taken to have satisfied its obligation under sub-clause (j) to make the project draft assessment report available if it complies with the publication requirements outlined in sub-clause (n).”	The requirement to make the <i>project assessment draft report</i> available, either stand-alone or as part of a <i>Annual Planning Report</i> , is separate to the requirement to provide AEMO with a summary of the <i>project assessment draft report</i> , triggering the consultation period required by 5.6.6(q).
5.6.6(r)	AER 1, p.8	“Clause 5.6.6(r) allows for a meeting between TNSPs and interested parties following the release of a project assessment draft report. It is not clear how the discretion afforded to the TNSP to meet with an interested party if the TNSP “considers that the meeting is necessary or desirable” would be exercised.”	The intent of this clause is to indicate that the TNSP, may, at its discretion meet with an interested party but must meet if there are multiple parties. The clause has been amended to reflect this intent.
5.6.6(r)	AER 1, p.8	“It is also not clear why the opportunity to request a meeting is limited to those parties which meet the definition of interested party in chapter 10, rather than the broader category of registered participants, AEMO and interested parties with whom consultation is required elsewhere in clause 5.6.6.”	For consistency and clarity the Commission will add “Registered Participants and AEMO” to the body of clause 5.6.6(r).
5.6.6(t)	Grid Australia, p.4	“The drafting of 5.6.6(s) requires the TNSP to prepare and make a project conclusion assessment report available: ‘As soon as practicable after the end of the consultation period for the project assessment draft report referred to in paragraph (q). Where a TNSP is exempt from preparing a project assessment draft report..., the requirement to publish a project conclusion	The Commission agrees the Rules should unambiguously require a TNSP to provide a project conclusion assessment report, when it has been exempt from providing the <i>project assessment draft report</i> . A new clause 5.6.6(t) has been inserted to achieve this.

^g Grid Australia 2008, National Transmission Planning Arrangements, Response to AEMC Draft Report – 30 May 2008, p.8

^h AEMC 2008, National Transmission Planning Arrangements, Final Report to MCE, 30 June 2008, Sydney, p.42

Draft Rule Clause	Stakeholder	Submission	Commission's Response
		<p>assessment report under sub-paragraph (s) would not apply.</p> <p>Grid Australia has therefore proposed the addition of a specific requirement for a TNSP to provide a project conclusion assessment report where it is exempt from providing the project assessment draft report.”</p>	
5.6.6(x)(3)	AER 1 Frontier Economics Attachment, p.6	<p>“This clause implies that there may be investments that aim to satisfy a reliability driven “identified need” but do not provide material market benefits. This is problematic as even deterministic reliability standards are ultimately driven by the need to serve load under contingency conditions. Therefore, it would be hard to believe that conditions would arise in which an option was required to meet a reliability standard but provided no material market benefits.”</p>	<p>The intent of this clause is to exempt the preferred option or any other credible option from completing a project assessment draft report if there is no material market benefit for any of the classes of market benefit specified in clause 5.6.5B(c)(4). Noting that options to meet a reliability standard could reasonably be expected to have material market benefits in terms of changes to voluntary load curtailment and involuntary load shedding, clause 5.6.6(x)(3) has been amended by inserting “except 5.6.5B(C)(4)(ii) and 5.6.5B(C)(4)(iii)” after 5.6.5B(c)(4).</p>
DISPUTES			
5.6.6A(d)(3)(i)	Energex, p.3	<p>“It should be clarified in sub-clause (i) that the AER’s power to direct ‘amendment’ does not extend to the power to direct replacement of the TNSP’s decision”.</p>	<p>The AER can direct the amendment of the TNSP’s decision. A new clause 5.6.6A(dd) has been added to confirm the Commission’s intent behind this clause. It requires the relevant TNSP to comply with a direction made under clause 5.6.6A(d)(3)(i).</p>
NEW LARGE TRANSMISSION ASSETS			
5.6.6AA(a)	AER 1, p.9	<p>“It is not clear why a TNSP would seek a determination from the AER under this provision. Given the clause only applies where the project assessment conclusions report is not in dispute and economic regulatory regime does not provide for an ex post review of a TNSP’s capital expenditure program, such a determination would have no practical effect. The AER believes that this provision should be removed.”</p>	<p>This clause mirrors provisions in the regulatory test and has not been considered as part of the NTP Review. Any decision on whether or not to delete this provision should be subject to consultation, and as such a separate Rule change request.</p>

Draft Rule Clause	Stakeholder	Submission	Commission’s Response
5.6.6AA(d) – (f)	AER 1, p.9	“...the AER is only allowed to make a determination that a project satisfies the RIT-T under clause 5.6.6AA where the project is not in dispute. The AER believes that there may be an inadvertent drafting error in relation to this provision. The AER believes that this clause may have been intended to allow a cost determination for all disputes in relation to the application of the RIT-T under clause 5.6.6A, rather than for determinations that a project satisfies the RIT-T under clause 5.6.6AA.”	The Commission believes the AER needs a cost recovery process for when it undertakes either a dispute resolution process or a determination as to whether a project satisfies the RIT-T. Clause 5.6.6AA(d) has been amended to enable clauses 5.6.6AA(d)-(f) to apply to both 5.6.6A and 5.6.6AA.
FORECAST OPERATING EXPENDITURE			
6A.6.6 & 6A.6.7(e)(11)	AER 1 Frontier Economics Attachment, p.7	“It is still not clear how these changes promote welfare-increasing market benefits investment or behaviour. There is still nothing clear in the operating or capital expenditure objectives to make pursuit of market benefits – say, in terms of reducing the cost of supply – an objective for TNSPs’ decisions. The reference to “efficient costs” in (c)(1) could be read as referring to undertaking an investment or other decision in a cost-effective way rather than choosing investments or operational changes on the basis that they may reduce the costs of dispatch or future investment.”	The Commission notes these comments.
MISCELLANEOUS DRAFTING SUGGESTIONS			
5.6.5B(f)(6) and 5.6.6(k)(6)	Grid Australia, p.4	“There should be consistency in the reference to the identification of benefits that occur outside of the area in which the TNSP is located. Currently the defined terms ‘participating jurisdiction’ and ‘region’, as well as the non-defined ‘jurisdiction’ are all used. Grid Australia suggests that ‘region’ would be the most appropriate term to use in the Draft Rules.”	The Commission agrees that there should be consistency in the reference to the identification of benefits that occur outside of the area in which the TNSP is located. The intent of clauses 5.6.5B(f)(6) and 5.6.6(k)(6) is to apply to regions not participating jurisdictions, therefore ‘jurisdictions’ has been replaced with ‘regions’ in clause 5.6.5B(f)(6), and ‘participating jurisdictions’ has been replaced with ‘regions’ in clause 5.6.6(k)(6).
	AEMOT, p.2	“AEMC’s Chapter 6A determination of 2006 used the terms	Clarifying the definition and treatment of funded augmentations and

Draft Rule Clause	Stakeholder	Submission	Commission's Response
		<p>'funded augmentation' and 'negotiated transmission services' interchangeably. However, the references to 'funded augmentations' and 'negotiated transmission services' throughout the NER treat them differently. AEMO considers that at some point the AEMC should clarify the definition and treatment of these services."</p>	<p>negotiated transmission services is a complex issue and outside the scope of this Rule Change Proposal. To be considered further by the Commission, this issue would need to be subject to a separate Rule change request.</p>