

Transmission Connection and Planning Arrangements
Amendments of the National Electricity Rules - Chapter 2, 5, 6A,
and 10

Rule Change Request and Proposal

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1 Name and address of Rule change request proponent

The Hon Ian Macfarlane
Chair
COAG Energy Council
GPO Box 9839
Canberra ACT 2601

2 The proposed Rules

The following proposes amendments to the National Electricity Rules (the Rules) which specify the arrangements for transmission planning and connections. These changes are based on the Australian Energy Market Commission's (AEMC) recommendations in its Final Report of the *Transmission Frameworks Review* (the Final Report), the Standing Council on Energy and Resources' (SCER) high level response to those recommendations and SCER's successor, the Council of Australian Governments Energy Council's (the Council) detailed analysis for the purpose of policy implementation.

It is proposed that the Rules be amended to:

- a. clarify the definitions for connection assets, connection services and classifications;
- b. enhance contestability in the connection arrangements;
- c. improve the transparency of information for negotiated transmission services;
- d. establish a framework for the nomination of appropriate independent engineering experts who may provide independent advice around the appropriateness of the technical specifications for a particular connection asset;
- e. support a nationally coordinated planning approach that ensures that both intra-regional and inter-regional options would be considered in determining the optimal investment;
- f. establish a process of formal consultation in the development of the National Transmission Network Development Plan (NTNDP); and
- g. introduce a uniform approach to Annual Planning Reports (APRs).

2.1 Background to the proposed Rules

In April 2010, the former Ministerial Council on Energy (MCE), tasked the AEMC with a review of electricity transmission frameworks to ensure that the transmission framework can lead to optimal future investment and operating decisions by generators and regulated network business. The objective of the review was to identify potential enhancements or reforms to the existing

framework that would further promote efficient investment and minimise total system costs across transmission and generation. In particular, MCE requested the AEMC to assess the effectiveness of the current arrangements for connection services for generators.

In its Final Report, the AEMC identified some inefficiencies in the provision of connection services and the way transmission networks are planned under the existing framework. The AEMC noted the existing process for connecting to the transmission network is costly, complex and time consuming. The AEMC considered the problem stems from the:

- a. ambiguities in the way the current Rules are expressed relating to the definition and classification of connection services; and
- b. issues within the negotiating framework that do not fully address the power asymmetries associated with negotiating with a monopoly service, with resultant impacts on cost, technical specifications and time.

In addition, the AEMC found that some aspects of transmission planning could be improved to better reflect the needs and intention of the market and promote efficient transmission investment in the National Electricity Market (NEM). The AEMC identified the following areas for possible improvement:

- a. consideration of inter-regional investment as a possible least cost option for transmission investment to deliver market and reliability benefits; and
- b. allowing transmission businesses, among other affected parties, to provide input into and feedback on the NTNDP which will make the process for developing it more robust.

On 31 May 2013, SCER agreed to a number of rule change proposals around the connections arrangements and planning frameworks set out in the Rules and tasked officials with progressing these to the AEMC.

In undertaking this task, the Council recognised that transmission connection arrangements are quite different in jurisdictions for which the Australian Energy Market Operator (AEMO) is authorised to exercise its declared network functions. This means that many of the amendments contained within this proposal are not appropriate in those jurisdictions; the following rule change request and attached proposed rules provide further clarity around the treatment of connections and planning arrangements in those jurisdictions.

Key issues identified with the connection arrangements

The objective of the connections framework is to deliver efficient connections services to those parties seeking to connect to the transmission network. The Council recognises efficient outcomes are more likely to be delivered through the competitive delivery of those services. However, it is important that there are clear lines of accountability for the reliable, safe and secure supply of

electricity across the shared network. Therefore, the preferred framework should:

- a. facilitate timely, technically appropriate and cost-reflective connections to the transmission network;
- b. promote transparency in the connection process, including transparent information on standard designs and costs;
- c. enable connection parties to seek the competitive provision of assets, construct them themselves, or have the transmission businesses carry out the construction as a negotiated service;
- d. facilitate effective negotiation between connecting parties and transmission businesses so that the terms of a negotiated connection service are fair and reasonable and maximise the efficiency of outcomes;
- e. maintain clear accountability for the safe and secure operation of the network; and
- f. incorporate a robust dispute resolution process including the ability to obtain an independent review of the technical requirements in the connection process.

2.2 Clarifying the definitions for connection assets, connection services and classifications

In its Final Report, the AEMC identified a lack of clarity in the Rules in terms of what connection services actually entail; specifically, the assets involved and where the “connection point” (or agreed point of supply) exists in a practical sense. The location of the connection point can affect which part of the services provided by the transmission business in relation to a connection are treated as negotiated transmission services or non-regulated transmission services. The current arrangements leave it open to transmission business interpretation and discretion about which services they provide and how they are regulated.

The AEMC reported that this lack of clarity surrounding connection arrangements, and, in particular, how new assets required for the purpose of connection should be classified and funded has been a source of confusion, and has hampered effective negotiations.

The Council notes that there is considerable ambiguity in the Rules regarding the provision of assets forming part of the shared network that are required as an interface with the connection. By making a clear distinction between services provided by assets that form part of the shared network (“identified user shared network assets” referred to as identified user shared assets in the AEMC’s Final Report), and those provided by assets used exclusively by the connecting party or parties (“dedicated transmission connection assets” referred to as dedicated connection assets or transmission connection assets in the AEMC’s Final Report), and the connection point in each case, would assist in:

- a. better linking between service classifications in the Rules and the assets underpinning their provision;
- b. clearly defining the services to be provided by transmission businesses;
- c. clearly identifying the connection point in each case; and
- d. the different treatment of these assets.

The Council proposes to provide more certainty around the terms used in relation to connections. It is therefore proposed the Rules be amended to make a clear distinction between services provided by assets that form part of the shared network and those provided by assets used exclusively by the connecting party or parties and the associated charging. The attached proposed Rules reflect this position.

As noted above, the Council recognises the nature of the current connection arrangements in jurisdictions for which AEMO is authorised to exercise its declared network functions are different. In these jurisdictions, all connection assets and services are contestable and AEMO is involved in all stages of the connection process from the assessment of connection standard to the negotiation of connection assets and associated services. Due to these arrangements, definition of connection assets and services are not a significant issue. As such, the Council considers that changes to the definitions in the Rules to clarify connection arrangements will accommodate the connection arrangements in declared network jurisdictions. The attached proposed Rules reflect this position.

2.3 Contestability

In its Final Report the AEMC also recommended that connecting parties should be able to choose who constructs the identified user shared network assets used to enable their connection to the transmission system. However it argued that the local transmission business should always be accountable for the operation, control and maintenance of these assets. The local transmission business would also provide the high level design of any assets required. The Council agrees with this position and considers it is important the Rules reflect this intention.

2.3.1 Identified User Shared Network Assets

Identified user shared network assets are shared transmission network assets developed and constructed for the purpose of connecting an identified user group¹ to an existing transmission system, but not used exclusively by the relevant identified user group, and funded by the relevant connecting party or parties. These assets include substations and other assets added to the shared transmission network for the purposes of facilitating a connection of a

¹ Noting this can be a single identified user.

specific user. However, this does not include deep augmentation of the network as the costs associated with such work are hard to allocate to specific beneficiaries.

The AEMC recommended that the Rules should allow a connecting party (or another party) to retain ownership of identified user shared network assets if it can agree terms with the local transmission business to allow the transmission business full operation, control and maintenance rights. The transmission business must also have the ability to facilitate future connections and network expansion where necessary.

The AEMC also recommended that all aspects of the service provided by a transmission business in respect of identified user shared network assets (including build, ownership and operation) should be provided as a negotiated service.

Further the AEMC found that contestability is not a criterion for defining whether a transmission service, such as a connection service, is prescribed, negotiated or non-regulated. There is therefore no direct linkage between an asset being contestable under Chapter 5 of the Rules and the service provided being unregulated under Chapter 6A of the Rules.

Chapter 10 of the Rules defines a contestable transmission service as “a service which is permitted by the laws of the relevant participating jurisdiction to be provided by more than one Transmission Network Service Provider as a contestable service or on a competitive basis”. The Rules also set out a requirement for network service providers to assess whether any service they propose to provide is contestable in that jurisdiction. Where a transmission service is contestable, a connection applicant may seek additional offers if they choose to do so.

Having considered the AEMC’s findings, the Council proposes increased competition and transparency in the construction of the assets required for connection. Specifically, the Council proposes contestable construction and ownership of identified user shared network assets and that the relevant transmission business is responsible for the operation and maintenance of the identified user shared network assets as the party legally responsible for the reliability of the entire licensed area of the shared network.

The proposed Rules specify the treatment of identified user shared network assets, including the following:

- a. identified user shared network assets should broadly be capable of being constructed by any party; or alternatively require the local transmission business to carry out the construction as a negotiated service;
- b. a connecting party should also be able to negotiate whether it, the local transmission business or a third party owns the assets;

- c. the local transmission business should be the party responsible for operating, controlling and maintaining identified user shared network assets;
- d. if the identified user shared network assets are owned by the connecting party, this party would automatically be exempt from registering as a transmission business. However, a condition of this exemption must be for the connecting party to allow the local transmission business to operate, control and maintain the identified user shared network asset, with the cost of these services negotiated between the parties;
- e. the local transmission business should be the party responsible for the high level design of identified user shared network assets;
- f. the local transmission business should be the party responsible for commissioning of the identified user shared network assets;
- g. the local transmission business should be the party responsible to perform, as a negotiated service, agreed works to safely interface the identified user shared network assets with the transmission business' existing shared network; and
- h. identified user shared network assets and services should be fully funded by connecting parties.

The Council recognises in jurisdictions for which AEMO is authorised to exercise its declared network functions all connection assets and services are contestable. For this reason, the Council considers the term "identified user shared network assets" should not apply in declared network jurisdictions. The attached proposed Rules reflect this position.

2.3.2 Dedicated Transmission Connection Assets

In its final report the AEMC defined 'dedicated transmission connection assets' as those assets that are transmission assets that are:

- a. developed and constructed for the purpose of connecting an identified user group to an existing transmission system;
- b. used exclusively by the relevant identified user group; and
- c. where the costs of developing, constructing, operating and maintaining those transmission assets are not recoverable from customers as charges for prescribed transmission services.

The boundary between dedicated transmission connection assets and shared assets is defined as the first point at which the power flow from the generator or to a major load customer can be isolated from the shared network.

The AEMC recommended that connection parties should have the flexibility to engage any qualified party (or parties) to provide dedicated transmission connection assets. The AEMC considered that there are sufficient providers and that barriers to entry are low enough, such that in the majority of cases a connecting party will have an alternative to the transmission business for the

provision of these assets. Transmission businesses would however be free to compete to provide dedicated transmission connection assets in all parts of the NEM.

Further the AEMC has recommended that as dedicated transmission connection assets are not part of the shared network, there are no material benefits to consumers in a transmission business operating and maintaining these assets that are not internalised by the connection party.

The Council agrees with the AEMC's recommendation that the provision of all aspects of dedicated transmission connection asset should be fully contestable as a non-regulated service. The proposed Rules therefore reflect that position.

The Council recognises in jurisdictions for which AEMO is authorised to exercise its declared network functions, all connection assets and services are contestable. For this reason, the Council considers the proposed application of "dedicated transmission connection asset" is not required in declared network jurisdictions. The attached proposed Rules also reflect this position.

2.4 Third Party Access, registration and exemptions from registration as a transmission network service provider

In its Final Report, the AEMC also made recommendations to clarify regulation around registration and exemptions, and third party access conditions in relation to dedicated transmission connection assets and identified user shared network assets. These are discussed separately below.

2.4.1 Exemption from registration as a transmission network service provider and from economic regulation under Chapter 5 and 6A

In its Final Report, the AEMC stated that the current Rules require that only a registered network service provider may own, control or operate a transmission or distribution system, unless it is exempted under Rules clause 2.5.1(d). The AEMC believed it would be inappropriate for a generator, or other party owning dedicated transmission connection assets, to be required to register as a transmission business and therefore be subject to all of the obligations of the Rules.

The AEMC considers it would be disproportionate and unnecessary to require parties to register as a transmission business, or even seek exemption, in respect of a very short connection with little prospect of being subject to a request for access. It therefore recommended there should be a minimum threshold length of 2 kilometers, below which all lines qualify for deemed (i.e. automatic) exemption.

Further, the AEMC recommended that generators and other parties owning and/or operating transmission lines longer than 2 kilometers should be required to register their assets in order to gain exemptions from the Australian Energy Regulator (AER) to own and operate these assets. These are referred to as registrable exemptions.

The Council agrees that it is appropriate that dedicated transmission connection assets should be exempt from regulation under Chapter 5 and 6A of the Rules, including the need to register as a transmission network service provider, although the exemption should be automatic so as not to be overly prescriptive. There is the potential for dedicated transmission connection asset to transition to a shared network, which is reflected in the section on transitioning to the shared network below.

The Council also notes that, where owned by a party that is not the transmission business, identified user shared network assets could, potentially, be economically regulated under Chapter 6A of the Rules. However, the regulatory burden associated with this would be unnecessary in light of the lack of ability for the owner to influence prices faced by any party apart from the connecting party, or future connecting parties, who would be able to negotiate terms under the new negotiation framework.

Consequently, the Council considers that identified user shared network assets should also be automatically exempt from regulation under Chapter 5 and 6A, subject to them being operated, controlled and maintained by the local regulated transmission business, as described below.

The proposed Rules therefore reflect this position.

Given identified user shared network assets and dedicated transmission connection assets do not apply in declared network jurisdictions, the Council considers the existing rules for registration and exemption from registration as a transmission network service should continue to apply to these jurisdictions. The proposed Rules also reflect this position.

2.4.2 Conditions on exemption from registration as a transmission network service provider and from economic regulation under Chapter 5 and 6A

In order to facilitate the efficient use of the transmission system, the AEMC considered that a requirement should be placed on any party owning dedicated transmission connection assets to negotiate access with third parties on reasonable terms. It therefore suggested the inclusion of certain conditions that would apply to parties owning dedicated transmission connection assets who are exempt from registration.

Standard conditions currently apply to all exemptions in the AER Electricity Network Service Provider Registration Exemption Guidelines. For dedicated transmission connection assets to be exempt from having to register as a transmission network service provider, the AEMC recommend the following conditions apply:

- a. requiring a mechanism to enable third party access to dedicated connections, including that this should occur through a negotiate/arbitrate framework; and
- b. requiring an appropriate and binding dispute mechanism process, including a set of third party access principles that should be considered by an arbitrator.

As stated above, the Council considers that an exemption from regulation should be automatic to parties owning dedicated transmission connection assets and should be clearly set out in the Rules, noting the asset owner would need to be registered with AEMO as a dedicated transmission connection asset owner but not as a transmission network service provider. However, the Council considers this automatic exemption should be conditional on allowing third party access on reasonable terms. The proposed Rules reflect this position.

The Council considers it is appropriate that dedicated transmission connection assets be registered so as to provide information for third parties who may wish to connect to the dedicated transmission connection asset and to assist AEMO in its National Transmission Planning (NTP) function.

As also discussed above, the Council considers that the automatic exemption extend to parties wishing to own identified user shared network assets, noting that the asset owner would also need to register with AEMO as an identified user shared network asset owner. A condition of this exemption would be for the party to allow the local transmission business to operate, control and maintain the asset, including the ability for the transmission business to facilitate future connections and network expansion where necessary.

Further, the Council considers that it is appropriate that a robust negotiation framework is established under the Rules that would apply to all parties negotiating access to networks, whether it is in regard to a dedicated transmission connection asset or an identified user shared network asset. This framework is set out further in the attached proposed Rules and in the Negotiated Services section below.

Given these conditions on exemption from registration as a transmission network service provider and from economic regulation link back to the identified user shared network assets and dedicated transmission connection

assets, the Council considers these conditions should not apply in declared network jurisdictions. The proposed Rules also reflect this position.

2.4.3 Ownership and third party access

The AEMC's Final Report confirms that transmission businesses are currently subject to third party access requirements under Chapter 5 of the Rules, and the AEMC recommends that these requirements should continue.

However, it also recommend that the Rules should be clarified to specify that if dedicated transmission connection assets are owned by a transmission business, the existing generator or customer should not have to accept terms that disadvantage it as a result of the transmission business providing access to a third party.

If a third party wishes to connect to the line, access should only be offered if there is sufficient spare capacity on the line, or the party that wishes to connect funds any upgrade that is required to ensure that it can be operated to an unconstrained level up to the point of connection to the shared network (unless the foundation user agrees to the contrary).

The Council agrees with the AEMC's recommendation and the proposed Rules reflect this position.

The Council recognises dedicated transmission connection assets do not apply in declared network jurisdictions. As a consequence, the Council considers the current arrangements should continue for these jurisdictions.

2.5 Transition to the shared network

As mentioned above, the AEMC recommends that the local transmission business should remain responsible for the operation, control and maintenance of the entire shared network within its jurisdiction for the reasons of accountability and system security. Consistent with this recommendation, the AEMC believes there are circumstances where it may be more appropriate for an asset which was built as a dedicated transmission connection asset to be treated as part of the shared network, providing prescribed transmission services, rather than as a dedicated connection providing services to identifiable users. The AEMC's Final Report specifies two circumstances in which a dedicated transmission connection asset would become part of the shared network:

- a. where a distribution network service provider connects to the dedicated transmission connection assets; or
- b. where a transmission business is augmenting the existing shared network to facilitate additional capacity, and the most efficient option would be to utilise the dedicated connection.

The AEMC suggested that the incumbent transmission business would identify when these triggers were met, by undertaking a Regulatory Investment Test for Transmission (RIT-T) to assess meeting a particular identified need. It therefore recommends that the Rules should state that if a RIT-T finds that upgrading the network through utilising dedicated transmission connection assets is the most efficient option, they would become part of the shared network.

The AEMC proposes that, unless the transmission business consents to an alternative arrangement, the owner of the dedicated asset should be required to either sell the asset to the transmission business or enter arrangements that allow the transmission business to operate and maintain the connection as part of the shared network.

The terms of the transfer or sale of the assets would be a matter for negotiation between the parties, however as explained below the AEMC recommends that all negotiated services are subject to commercial arbitration processes.

If a service is defined as being provided by part of the shared network, it would be provided as a prescribed transmission service and so funded by transmission users through Transmission Use of System charges. The assets associated with these services would be subject to a revenue determination by the AER. Therefore, where ownership of assets is transferred to the transmission business, the transmission business would receive a revenue allowance for the ownership and operation of those assets.

However, if the owner transfers operational responsibility to the transmission business but maintains the ownership, it would be up to the AER to determine the appropriate treatment in terms of revenue allowances. If the owner registers as a transmission business it would be subject to a revenue determination by the AER.

As the current process for revenue determinations is long and resource intensive, the AEMC proposes a simplified revenue determination would be more proportionate for single asset owners in these circumstances. The AEMC therefore states that, if shared assets including identified user shared network assets, are owned by a party other than the transmission business a number of issues arise which require amendments to the Rules. These include:

- a. the need to develop a regime under which the owners of the assets are compelled to allow the transmission business to operate the assets;
- b. the need to ensure that the transmission business has all the rights it will require in relation to the assets including rights to use, augment and replace the assets where necessary; and

- c. the need to develop a mechanism by which the transmission business can recover the costs involved in leasing the asset under prescribed charges.

The Council agrees with the AEMC's conclusion that, in some circumstances, it may be appropriate for assets developed as dedicated transmission connection assets to transition to shared network assets. The Council however does not consider the triggers suggested by the AEMC as the most appropriate way to determine if a dedicated transmission connection asset should be transitioned to the shared network.

The Council instead supports an approach where an application would be made by a party (including potentially the local transmission business) to have a dedicated transmission connection asset or an identified user shared network asset transition to the incumbent's shared network. The merits would be assessed in each case before a determination is made on the transition of the asset.

This approach will provide for consideration to be given to all the costs and benefits of transitioning the asset in each case. The proposed Rules have been developed to set out the process for assessing whether a connection should transition to the shared network.

The Council also recognises that there is the potential for a dedicated transmission connection asset to be regulated, where that asset is owned by a party that is not the incumbent transmission network business. The trigger for an assessment of whether the dedicated transmission connection asset or identified user shared network asset that is owned by a party that is not the incumbent network business should be classified as a shared network, and therefore regulated, would be an application from an appropriate party. The cause of this application could be a third party being unable to negotiate access to an exempt connection on reasonable terms.

An appropriate regulatory body would then assess the application to regulate the asset as a new shared network, and consider matters such as abuse of monopoly power.

As part of its economic regulatory functions, the AER already assesses whether transmission services are being provided as part of the shared network. For example, under Chapter 6A of the Rules, the AER is required to determine whether a transmission service is a prescribed transmission service or a negotiated transmission service on the basis of whether it provides a service to all transmission customers or meets a defined set of requirements spelled out in the Rules. On the basis of this assessment, the AER determines whether a service should be incorporated into the transmission businesses' regulated revenues.

Therefore, the Council supports the AER performing the role of assessing and making determinations about whether assets should transfer to the shared network in accordance with the rules. The attached proposed Rules reflect this position.

The Council also recognises that all connection assets have the potential to be considered shared network assets and that the transitioning provisions should apply to all dedicated transmission connection assets or identified user shared network assets, regardless of ownership. The owner of the connection asset may have the power and the incentive to discriminate against third parties seeking to connect to that asset.

In circumstances where the non-transmission network owner of a dedicated transmission connection asset or an identified user shared network asset retains ownership of the asset, this transitioning would result in a creation of a new shared network that would be regulated as a separate entity under Chapter 6A of the Rules.

Under this circumstance, the Council recognises the concerns raised by the AEMC about the long regulatory determination process that would be faced by the owner of the newly regulated network asset. However, the Council considers the process undertaken for regulatory determinations is important to ensure transparency in the decision making process and that sufficient stakeholder engagement is undertaken. Amending this process could potentially impact on its effectiveness without any substantial benefit to the owner.

Consequently, the Council does not intend to introduce specific provisions at this time for new shared networks.

The Council recognises that dedicated transmission connection assets and identified user shared network assets do not apply in declared network jurisdictions. As a consequence, the Council considers the transitioning arrangements should not apply for these jurisdictions.

2.6 Negotiated Services

In its Final Report, the AEMC made a number of recommendations to strengthen the negotiating position of connecting parties through increasing the transparency of information. These are discussed separately below.

2.6.1 Negotiating Principles

In its Final Report, the AEMC found evidence that the negotiating framework does not provide sufficient protection for connecting parties in light of transmission businesses' negotiating power. This is leading to inefficient outcomes in terms of costs and time taken to connect. The AEMC therefore

recommended that the protections in the rules for connecting parties should be bolstered.

The AEMC found that the existing principles in the rules are focussed on cost and prices issues and do not adequately cover a number of the issues which are the sources of disagreement in connections negotiations in practice, for example perceived over-specification, timeliness and risk allocation.

To address these issues the AEMC has recommended that the negotiating principles should be updated and extended to ensure they cover all aspects of the service provided by a transmission business in respect of identified user shared network assets.

Further, the AEMC recommended that the Rules be amended to rationalise the existing negotiation framework through establishing a single set of negotiating principles which would apply directly to all transmission businesses. These amalgamated negotiating principles would replace the individual negotiating frameworks developed by each transmission business and approved by the AER.

The Council agrees with the AEMC that the existing negotiating principles in the Rules should be updated and extended to ensure they cover services provided by a transmission business in relation to identified user shared network assets. The Council also considers that a single set of negotiating principles, contained in the Rules that apply to all transmission businesses will reduce the administrative burden on the AER and the potential for divergence in arrangements across the NEM.

However, in recognition that it is not just transmission businesses that could hold the power for negotiation of a connection service (see the discussion on third party access to a connection service above), the Council considers it is appropriate for the negotiating principles to apply as a uniform framework to all connections covered under Chapter 5 of the Rules. This would be appropriately tailored to include connections to dedicated transmission connection assets and identified user shared network assets. The attached proposed Rules reflect this position.

2.6.2 Increasing Transparency

The AEMC made a number of recommendations in its final report that it considers will enhance the transparency requirements on transmission businesses when providing negotiated services. This will better enable fair and equal negotiations between the transmission business and the connecting party.

The AEMC recommended that the Rules be amended to require transmission businesses to publish:

- a. design standards and philosophies;
- b. standard form connection contracts; and
- c. pro-forma preliminary programmes, including relevant milestones and indicative timeframes.

The AEMC also recommended that where a transmission business provides a preliminary program for a specific connection application, the Rules should oblige the transmission business to include in the program more specific detail about each aspect of the negotiation and construction processes.

When a transmission business is providing a quote for negotiated services, the AEMC has recommended the transmission business be required to provide to the connection applicant a range of options (for example, in terms of locations and configuration) and a reasonable cost breakdown for identified user shared network assets.

The AEMC notes that the Rules already allow a transmission business to include in its offer to connect, options for connection which can be considered by the connection applicant. The AEMC found that this is very rarely done and receiving information on options at this stage is too late in the connection applicant's project development phase.

The AEMC recommended that the Rules be amended such that a transmission business is required to set out a full range of options and an analysis as to which are preferred and which are not. Further, this information should be provided as early as possible in the connection process and no later than the end of the connection enquiry stage. This would enable the connection party to formulate its business case, and to prepare its application to connect.

In relation to the reasonable cost breakdown for identified user shared network assets, the AEMC recommended that the level of information should be sufficient to enable the connection applicant to seek a second opinion on costs from a third party. The AEMC has recommended a number of items that transmission business quotes for service should include as a minimum breakdown.

The Council supports improving transparency in the provision of negotiated services and agrees with the AEMC's recommendations above. The attached proposed Rules reflect these recommendations.

2.6.3 Independent engineer

The AEMC has recommended that where agreement cannot be reached between a transmission business and a connecting party on the

reasonableness of any technical requirements in the connection process, either party should have the option to call for the appointment of an independent engineering expert to provide its opinion. The choice of engineer is to be agreed between the transmission business and the connecting party, and the cost of the engineer's services should be shared equally between the two parties.

Providing for access to independent technical experts allows for testing whether the technical specifications around the connection assets are appropriate for the service being provided and the level of risk to the shared network.

The Council agrees that where agreement cannot be reached between a transmission business and a connecting party on the reasonableness of any technical requirements in the connection process, either party should have the option to call for the appointment of an independent engineering expert to provide its opinion.

The Council however notes that there may be circumstances where parties are unable to agree to an expert. Where there is failure to reach agreement on an appropriate independent expert, the Council considers it appropriate that either the connecting party or the transmission business may request the AER to nominate an independent expert from a panel of technical standards experts.

The attached proposed Rules therefore require the AER to set up and maintain a relevant panel of technical experts on the basis of advice from AEMO.

The proposed Rules also require that AEMO keep the AER advised of any changes to the advice it has previously provided. In addition, the AER is to advise AEMO on whether it is necessary to increase or decrease the number of members of the panel in light of its experiences in dispute resolution.

The cost of the engineer's services should be shared equally between the two parties, unless the expert finds some other allocation of costs is reasonable.

The proposed Rules also require that parties be obliged to provide the expert with sensitive commercial information, as is necessary to perform the assessment. The Council requests the AEMC consider whether the requirement to provide this information should be subject to civil penalties.

Given all connection assets and services are contestable and AEMO is involved in all stages of the connection process, the Council agrees this rule change is not required in declared network jurisdictions. The attached proposed Rules also reflect this position.

The attached proposed Rule changes reflect these recommendations.

2.6.4 Dispute Process

The AEMC has recommend that the Rules be amended to clarify that the price, terms and conditions of all negotiated services are subject to commercial arbitration processes. The Rules should also clarify that any decision reached through commercial arbitration is binding on the parties, including for example, any instruction to amend the terms of the connection agreement to make them fair and reasonable. The Council agrees with these recommendations and the attached proposed Rules reflect this position.

3 Key issues identified with transmission planning

The AEMC made a number of recommendations in its Final Report on changes to the existing planning arrangements. These are discussed separately below.

3.1 Enhanced Transmission Business Functions

3.1.1 Inter-regional Investment options

In its Final Report, the AEMC found that the current framework does not explicitly allow for transmission business funding investments to meet an identified need in a different region to the one in which it operates. As a result transmission businesses may have little or no incentive to consider inter-regional options in determining their optimal investment.

To promote the identification and implementation of network investment options that cross regional boundaries, it is proposed that amendments to the Rules be undertaken to:

- a. introduce a new requirement on transmission businesses to consider whether an option in another jurisdiction may also meet their investment needs when preparing their APRs;
- b. introduce a new requirement on transmission businesses to consult with other transmission businesses on the potential for inter-regional investment to deliver market and reliability benefits; and
- c. introduce a requirement to specifically consider investment in other regions as a credible option when undertaking a regulatory investment test for transmission.

The AEMC also recommended that the Rules should be clarified to ensure that cross-regional investments are treated as regulated investments.

The Council supports a nationally coordinated planning approach that ensures that both intra-regional and inter-regional options would be considered in determining the optimal investment.

The Council supports the provision of least cost investment to deliver market and reliability benefits and that, with a national market, exploration of inter-regional investment as an alternative to intra-regional investment should be explicitly considered in network planning and regulatory investment testing processes.

The Council agrees that consideration of inter-regional investment as a possible least cost option for transmission investment to deliver market and reliability benefits should form a routine part of network planning processes. The attached proposed Rules reflect these recommendations.

3.1.2 Transmission business input into the NTNDP

In its Final Report, the AEMC found that the current framework does not require transmission businesses to formally comment on the NTNDP. The AEMC considered it appropriate that this occur. This would ensure that the different perspectives of the parties involved in planning are appropriately captured and reflected through the process. Coordination between national and local issues should therefore occur at the outset of the planning process.

The AEMC recommended amending the Rules requiring the establishment of a transmission working group and setting out the process for that working group to review and provide comments on the NTNDP during the document development.

The Council supports measures aimed at the ongoing development of the NTNDP to make it a robust and effective planning tool for industry. The Council considers that the more active involvement of transmission businesses would contribute to the development of a NTNDP that reflects information that is currently only readily accessible for transmission businesses.

The Council agrees with the proposal for the Rules to be amended to introduce a requirement for AEMO to establish a working group consisting of transmission businesses to provide input into the development of the NTNDP. The attached proposed Rule changes reflect these recommendations.

3.1.3 Consistency of Annual Planning Reports

In its Final Report, the AEMC found that the Rules do not require transmission businesses to consider the consistency of their APRs with the NTNDP and other APRs. As a result each transmission business adopts a different approach to presenting the outcomes of its annual planning. This makes it difficult for stakeholders to compare between individual APRs and the NTNDP.

The AEMC recommended improving the consistency of transmission businesses' APRs and requiring AEMO to report on the consistency of transmission network service providers' APRs in the NTNDP.

The Council supports measures to improve the consistency of the information presented in APRs; this will increase the transparency of the planning process, facilitate comparative analysis, and ultimately increase the predictability of the investment planning process.

The Council considers that there are benefits associated with providing minimum requirements for the content of APRs, which will improve consistency in planning and allow for the more effective development of the transmission network on a national basis rather than within regions. In addition, given the NTNDP is intended to provide input into the development of the APRs, it is appropriate for reporting in APRs and the NTNDP to be consistent.

The Council also considers that providing feedback on the consistency of APRs through the NTNDP will allow for their ongoing development and usefulness.

It is therefore proposed that the rules be amended to introduce specific, minimum requirements for transmission businesses to include in their APRs. In addition, Rules should be made that require AEMO to report on the consistency of transmission businesses' APRs in the NTNDP.

The attached proposed Rules reflect these recommendations.

4 Need for separate arrangements for adoptive jurisdictions with AEMO's declared network functions

Transmission connection and planning arrangements are quite different in jurisdictions for which AEMO is authorised to exercise its declared network functions. Where such arrangements are applied (under sections 50C- 50J of the National Electricity Law), there is a separation of ownership of the declared transmission system from certain aspects of operation and control of that system. Instead, AEMO has additional functions to plan and direct augmentations of the declared transmission system as well as provide network services while the transmission businesses own and operate the system, subject to the functions conferred on AEMO.

Many of the requirements imposed on transmission network businesses under the above changes are not necessary to impose on AEMO. This is because AEMO does not have the same commercial incentives faced by transmission businesses that own, plan, operate and invest in transmission infrastructure.

In light of this, some of the proposed changes are not appropriate for jurisdictions where AEMO has declared network functions, specifically relating to:

- a. planning, authorising, contracting for, and directing, augmentation of the declared shared network;
- b. providing information about the planning processes for augmentation of the declared shared network;
- c. providing information and other services to facilitate decisions for investment and the use of resources in the adoptive jurisdiction's electricity industry;
- d. providing shared transmission services by means of, or in connection with, the declared shared network;
- e. any other functions, related to the declared transmission system or electricity network services provided by means of or in connection with the declared transmission system, conferred on it under this Law or the Rules; and
- f. any other functions, related to the declared transmission system or electricity network services provided by means of or in connection with the declared transmission system, conferred on it under a law of the adoptive jurisdiction.

While the attached proposed Rules reflect a carve out of all such provisions, in progressing the Rule change request, the Council requests the AEMC have regard to:

- a. where the changes cannot be adopted in jurisdictions for which AEMO is authorised to exercise its declared network functions and should not apply at all;
- b. where the changes could be adopted, with some modification, as is consistent with other similar provisions in the Rules; and
- c. where AEMC changes other provisions of the Rules, it should consider the applicability of those changes for the declared network functions jurisdictions.

5 Proposed rules

Proposed Rules to give effect to the above policy positions are at **Attachment A**.

6 How the proposed rules will or are likely to contribute to the achievement of the national electricity objective

The National Electricity Objective (NEO) is set out in section 7 of the National Electricity Law. The NEO states:

"The objective of this Law 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:

- a) price, quality, safety, reliability and security of supply of electricity; and
- b) the reliability, safety and security of the national electricity system."

The proposed Rule changes will contribute to the achievement of the NEO as it will ensure that the provisions around transmission connection and planning are focused on efficient outcomes in terms of investment, operation and use of transmission services.

The proposed Rule changes will address the cost, complexity and time delays associated with both negotiating with a monopoly business and having the connection energised within commercial timeframes. As these costs are ultimately borne by consumers, such amendments are in their long term interests. Specifically, the proposed Rule changes will strengthen the negotiating framework, providing connecting parties with greater ability to negotiate a feasible and effective connection and provide a number of safeguards to reduce the risk of transmission businesses over-specifying the assets - and therefore the cost - required for connections. Further, new incentives will be placed on transmission businesses to be more responsive to the needs of connecting generators and customers - for example in facilitating connections in a timely manner or being prepared to accept an appropriate liability for late delivery.

The proposed Rule changes would be less intrusive and less administratively costly than directly regulating connections as a Prescribed Transmission Service.

The proposed Rule changes around transmission planning will better facilitate the development of the transmission network as a national grid, thereby allowing for greater competition in the wholesale market and delivery of the most efficient network augmentation solution, be it within a region or across boundaries. As a result, the NEO, with regards to the efficient provision, operation and use of electricity services will be promoted through these proposed Rule changes.