

National Electricity Rules Version 45

Information

This draft version of the National Electricity Rules includes amendments proposed in the Rule Change Request for the:

Proposed National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule

This version of the National Electricity Rules is provided for information purposes only and contains only those sections of Chapters 5, 6, 6A, 8 and 11 that the Rule Change Request proposes to amend.

Chapter 5. Network Connection

5.6 Planning and Development of Network

5.6.1A Network Development generally

- (a) Clause 5.6.1 sets out obligations regarding forecasts for connection points to the transmission network.
- (b) Clause 5.6.2 states the obligations of Network Service Providers for planning connections to the network.
- (c) Clause 5.6.2A contains provisions regarding the Annual Planning Report for all Transmission Network Service Providers.
- (d) Clause 5.6.2AA contains provisions regarding the Distribution Annual Planning Report for all Distribution Network Service Providers, including obligations for Distribution Network Service Providers regarding the Demand Side Engagement document.
- (e) Clause 5.6.3 sets out AEMO's obligations to publish information and guidelines, and provide advice regarding network development.
- (f) Clause 5.6.4 contains provisions regarding AEMC's last resort planning powers.
- (g) Clauses 5.6.5B and 5.6.5C contain provisions regarding the regulatory investment test for transmission.
- (h) Clauses 5.6.5CA and 5.6.5CB contain provisions regarding the regulatory investment test for distribution.
- (i) Clause 5.6.5D contains provisions regarding the identification of a credible option relevant to the application of the regulatory investment test for transmission or the regulatory investment test for distribution (as the case may be).
- (j) Clause 5.6.5E sets out AER's obligations to undertake cost threshold reviews relevant to the application of the regulatory investment test for transmission or the regulatory investment test for distribution (as the case may be).
- (k) Clause 5.6.6 contains provisions regarding the regulatory investment test for transmission procedures, including procedures for consultation and reports.

- (l) Clause 5.6.6A contains provisions regarding disputes in relation to the application of the *regulatory investment test for transmission*.
- (m) Clause 5.6.6AA contains provisions regarding the making of a determination by the AER as to whether the *preferred option* satisfies the *regulatory investment test for transmission* or the *regulatory investment test for distribution* (as the case may be).
- (n) Clause 5.6.6AB contains provisions regarding the *regulatory investment test for distribution* procedures, including procedures for consultation and reports.
- (o) Clause 5.6.6AC contains provisions regarding disputes in relation to the application of the *regulatory investment test for distribution*.
- (p) Clause 5.6.6B contains provisions regarding the construction of *funded augmentation*.

Note: Rule 5.6 requires that certain distribution investments, including joint investments, are subject to the *regulatory investment test for transmission*, and that certain transmission investments are subject to the *regulatory investment test for distribution*.

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5.6.2 Network Development

- (a1) The terms *Network Service Provider*, *Transmission Network Service Provider* and *Distribution Network Service Provider* when used in this clause 5.6.2 are not intended to refer to, and are not to be read or construed as referring to, any *Network Service Provider* in its capacity as a *Market Network Service Provider*.
- (a) Each *Transmission Network Service Provider* and *Distribution Network Service Provider* must analyse the expected future operation of its *transmission networks* or *distribution networks* over an appropriate planning period, taking into account the relevant forecast *loads*, any future *generation*, *market network service*, demand side and *transmission* developments and any other relevant data.

Note

This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)

- (b) Each *Transmission Network Service Provider* must conduct an annual planning review ~~with each *Distribution Network Service Provider* connected to its *transmission network* within each region. The annual planning review must, which must:~~
 - (1) incorporate the forecast *loads* as submitted or modified in accordance with clause 5.6.1; and

- (2) include a review of the adequacy of existing *connection points* and relevant parts of the *transmission system* and planning proposals for future *connection points*; and
- (3) take into account the most recent *NTNDP*; and
- (4) consider the potential for *augmentations*, or non-*network* alternatives to *augmentations*, that are likely to provide a net economic benefit to all those who produce, consume and transport electricity in the *market*.

Note

This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)

(b1) For the annual planning review required by paragraph (b), each Transmission Network Service Provider must consult with each relevant Distribution Network Service Provider.

(c) ~~**[Deleted]** Where the need for an *augmentation* or a non-*network* alternative is identified (either by the annual planning review or independently of that review), the relevant parties must undertake joint planning in order to determine plans for consideration by relevant *Registered Participants*, *AEMO* and *interested parties*. For this purpose, the relevant parties are:~~

~~(1) for the *declared shared network* of an *adoptive jurisdiction* the relevant *declared transmission system operator*, the relevant *Distribution Network Service Provider*, *AEMO* and any *interested party* that has informed *AEMO* of its interest in the joint planning process; and~~

~~(2) for any other case the relevant *Network Service Providers*.~~

Note

~~This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)~~

(d) The minimum planning period for the purposes of the annual planning review is ~~5 years for *distribution networks* and~~ 10 years for *transmission networks*.

(e) Each *Network Service Provider* must:

- (1) extrapolate the forecasts provided to it by *Registered Participants* for the purpose of planning;
- (2) if the analysis required by subparagraph(1) indicates that any relevant technical limits of the *transmission or distribution systems* will be

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exceeded, either in normal conditions or following the contingencies specified in schedule 5.1, notify any affected *Registered Participants* and *AEMO* of these limitations; and

- (3) notify any affected *Registered Participants* and *AEMO* of the expected time for undertaking proposed corrective action which may consist of:
 - (i) *dual function assets* or *transmission investment* designed to address limitations in respect of a *distribution network* notified under subparagraph (2); and
 - (ii) *network* or non *network* corrective action or modifications to *connection facilities*, designed to address the limitations notified under subparagraph (2).

Note

This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)

- (e1) ~~**[Deleted]** For corrective action proposals of a kind referred to in paragraph (e)(3)(i), the processes detailed in paragraphs (f), (g) and (h) (m) must be conducted jointly by the relevant *Distribution Network Service Provider* and *Transmission Network Service Provider*.~~

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~~Note~~

~~This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)~~

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- (e2) ~~**[Deleted]** For corrective action proposals of a kind referred to in paragraph (e)(3)(ii) and notified by a *Distribution Network Service Provider*, the processes detailed in paragraphs (f) and (g), (h) (m) must be conducted by the relevant *Distribution Network Service Provider*.~~

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~~Note~~

~~This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)~~

- (f) ~~**[Deleted]** Before making the report referred to in paragraph (h), the relevant *Distribution Network Service Provider* or *Network Service Providers* must consult with affected *Registered Participants*, *AEMO* and *interested parties* on the possible options, including but not limited to demand side options, generation options and market network service options to address the projected limitations of the relevant *distribution system* except that a *Distribution Network Service Provider* does not need to consult on a *network option* which would be a *new small distribution network asset*.~~

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~~This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)~~

- (g) ~~[Deleted] Each *Distribution Network Service Provider* must carry out an economic cost effectiveness analysis of possible options to identify options that satisfy the *regulatory test*, while meeting the technical requirements of schedule 5.1, and where the *Network Service Provider* is required by clause 5.6.2(f) to consult on the option this analysis and allocation must form part of the consultation on that option.~~

Note

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- (g1) ~~[Deleted] For corrective action proposals of a kind referred to in paragraph (e)(3)(i), the relevant *Transmission Network Service Provider* and *Distribution Network Service Provider* must carry out an economic cost effectiveness analysis of possible options to identify options that satisfy the *regulatory test*, while meeting the technical requirements of schedule 5.1 and that analysis and allocation must form part of any consultation required by paragraph (f).~~

Note

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~~This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)~~

- (h) ~~[Deleted] Following conclusion of the process outlined in paragraphs (f) and (g) or (g1), the relevant *Distribution Network Service Provider* or *Network Service Providers* must prepare a report that is to be made available to affected *Registered Participants*, *AEMO* and *interested parties* which:~~

- ~~(1) includes an assessment of all identified options referred to in paragraph (g) or (g1);~~
- ~~(2) includes details of the preferred proposal including:~~
- ~~(i) its economic cost effectiveness analysis in accordance with paragraph (g) or (g1); and~~
- ~~(ii) the consultations conducted for the purposes of paragraph (g) or (g1);~~
- ~~(3) summarises the submissions from the consultations; and~~
- ~~(4) recommends the action to be taken.~~

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Note

~~This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)~~

- (i) ~~[Deleted]Registered Participants may dispute the recommendation of the report prepared under clause 5.6.2(h) within 40 business days after the report is made available in respect of any proposal that is a new large distribution network asset or is reasonably likely to change the distribution use of system service charges applicable to that Registered Participant by more than 2% at the date of the next price review, based on the assumption that the same approach to distribution network pricing is taken for the next review period as that taken for the current review period.~~
- (j) ~~[Deleted]If any Registered Participant disputes a recommendation under paragraph (i), the relevant Distribution Network Service Provider or Network Service Providers and the relevant affected Registered Participant must negotiate in good faith to reach agreement on the action to be taken.~~
- (k) ~~[Deleted]Following:~~
 - (1) ~~completion of the 40 business day period referred to in clause 5.6.2(i) or on resolution of any dispute in accordance with rule 8.2, in relation to proposals to which clause 5.6.2(j) applies; or~~
 - (2) ~~completion of the report referred to in clause 5.6.2(h), in relation to any other network option recommended by the report,~~~~the relevant Distribution Network Service Provider or Transmission Network Service Provider must arrange for the network options (if any) recommended by its report made in accordance with clause 5.6.2(h) to be available for service by the agreed time.~~

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Note

~~This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)~~

- (k1) The relevant *Distribution Network Service Provider* or *Transmission Network Service Provider* must, as appropriate, include the cost of the relevant *network options referred to in paragraph (k)* in either:
 - (1) the calculation of *distribution service* prices determined in accordance with Chapter 6; or
 - (2) the calculation of *transmission use of system charges*.
- (l) If a *use of system service* or the provision of a service at a *connection point* is directly affected by a *transmission network* or *distribution network*

augmentation, appropriate amendments to relevant *connection agreements* must be negotiated in good faith between the parties to them.

- (m) Where the relevant *Transmission Network Service Provider* or *Distribution Network Service Provider* decides to implement a *generation* option as an alternative to *network augmentation*, the *Network Service Provider* must:
- (1) register the *generating unit* with *AEMO* and specify that the *generating unit* may be periodically used to provide a *network* support function and will not be eligible to set *spot prices* when *constrained on* in accordance with clause 3.9.7; and
 - (2) include the cost of this *network* support service in the calculation of *transmission service* and *distribution service* prices determined in accordance with Chapter 6 or Chapter 6A, as the case may be.

Note

This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)

- (n) *AEMO* must provide to *Network Service Providers* on request, a copy of any report provided to *AEMO* by a *Network Service Provider* under clause 5.2.3(d)(12). If a *Registered Participant* reasonably considers that it is or may be adversely affected by a development or change in another *region*, the *Registered Participant* may request the preparation of a report by the relevant *Network Service Provider* as to the technical impacts of the development or change. If so requested, the *Network Service Provider* must prepare such a report and provide a copy of it to *AEMO*, the *Registered Participant* requesting the report and, on request, any other *Registered Participant*.

Note

This clause is classified as a civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)

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5.6.2AA Distribution Annual Planning Review and Report

Purpose

- (a) The purpose of the *distribution* annual planning review and report is to:
- (1) ensure timely and efficient investment for the long term interests of consumers of electricity;
 - (2) ensure the efficient and effective development of the *network*, including to ensure that non-*network* alternatives are considered;
 - (3) provide for an appropriate level of information disclosure and

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reporting:

- (4) ensure a level playing field for all *regions* in terms of attracting investment and promoting efficient decisions;
- (5) ensure that *Network Users* understand how the timing and location of *connections* might affect capability of the *network* and the need for *augmentations* or non-*network* alternatives; and
- (6) minimise the costs of meeting the *regulatory obligations* or *requirements* by participants operating in more than one *region* in the *NEM*.

Review

- (b) Within 3 years from [commencement date of Rule], the AEMC must commence a review, under section 45 of the *National Electricity Law*, in respect of the operation and effectiveness of the *distribution annual planning review*, reporting and assessment obligations associated with the *regulatory investment test for distribution*, under the *Rules*.

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Scope of the Distribution Annual Planning Review

- (c) The terms *Network Service Provider*, *Transmission Network Service Provider* and *Distribution Network Service Provider* when used in this clause 5.6.2AA are not intended to refer to, and are not to be read or construed as referring to, any *Network Service Provider* in its capacity as a *Market Network Service Provider*.
- (d) Each *Distribution Network Service Provider* must analyse the expected future operation of its *network* over the appropriate *forward planning period*.
- (e) The minimum *forward planning period* for the purposes of the *distribution annual planning review* is 5 years for *distribution assets*, and 10 years for *transmission assets* and *dual function assets*.
- (f) The *distribution annual planning review* must include all assets and activities that would be expected to have a material impact on the *Distribution Network Service Provider's network* over the appropriate *forward planning period*.

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Requirements of the Distribution Annual Planning Review

- (g) Each *Distribution Network Service Provider*, for its *network*, must:
 - (1) prepare forecasts covering the *forward planning period* of maximum demands for:
 - (i) its *network* as a whole;
 - (ii) *sub-transmission lines*;

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(iii) zone substations;

(iv) to the extent practicable, primary distribution feeders;

having consideration of:

(v) the number of customer connections;

(vi) energy consumption; and

(vii) estimated embedded generating units and outputs;

(2) identify, based on the outcomes of the forecasts in subparagraph (1), limitations on its network that may be caused by one or more of the following factors:

(i) forecast load exceeding total capacity;

(ii) the requirement for asset refurbishment or replacement;

(iii) the requirement for power system security or reliability improvement;

(iv) design fault levels being exceeded;

(v) the requirement for voltage regulation; and

(vi) the requirement to meet any regulatory obligation or requirement;

(each a system limitation)

(3) identify the need for undertaking corrective action or modifications to address system limitations, and the need to carry out the requirements of the regulatory investment test for transmission or the regulatory investment test for distribution, and the Demand Side Engagement Strategy where appropriate;

(4) undertake the distribution annual planning review in a manner which is consistent with its asset management policies; and

(5) take into account any applicable jurisdictional requirements.

(h) Each Distribution Network Service Provider must conduct joint planning with each Transmission Network Service Provider of the transmission networks to which the Distribution Network Service Provider's networks are connected. The relevant Distribution Network Service Provider and Transmission Network Service Provider must:

(1) meet on a regular and as required basis to assess the adequacy of existing transmission and distribution networks and transmission-distribution connection points over the next five

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years and to undertake joint planning of proposals which relate to both networks;

- (2) use best endeavours to work together to ensure efficient planning outcomes and to identify the most efficient investments in accordance with subparagraph (4);
- (3) identify any system limitations that will affect both the Transmission Network Service Provider's and Distribution Network Service Provider's networks or will require coordination by both the Distribution Network Service Provider and Transmission Network Service Provider to undertake corrective action or modifications to address a system limitation; and

in the case of the declared shared network of an adoptive jurisdiction, the relevant declared transmission system operator, the relevant Distribution Network Service Provider, AEMO and any interested party that has informed AEMO of its interest in the relevant plans, shall conduct joint planning;

- (4) where the need for augmentation or a non-network alternative is identified under subparagraph (3):
 - (i) jointly determine plans that can be considered by relevant Registered Participants, AEMO, interested parties, and parties on the Distribution Network Service Provider's Demand Side Engagement Register;
 - (ii) must carry out the regulatory investment test for transmission for the identified need; and
 - (iii) may agree on a lead party to be responsible for carrying out the regulatory investment test for transmission. In this case, the other parties will be deemed to have discharged their obligations to undertake the regulatory investment test for transmission in response to the identified need for investment.

(i) Distribution Network Service Providers must meet regularly to undertake joint planning with other Distribution Network Service Providers where there is a requirement to consider the need for any augmentation or non-network alternative that affects more than one Distribution Network Service Provider's network.

(j) Each Distribution Network Service Provider must engage with non-network providers, and consider non-network alternatives, including the requirement for each Distribution Network Service Provider to prepare and implement a Demand Side Engagement Strategy, engage with any potential non-network providers in accordance with the Demand Side Engagement Strategy, and consider any potential non-network alternatives at the planning stage.

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Demand Side Engagement Strategy

(k) The purpose of the Demand Side Engagement Strategy is to:

- (1) provide transparency regarding the consideration and assessment of non-network solutions by Distribution Network Service Providers;
- (2) encourage the engagement of non-network providers in network planning and development; and
- (3) promote economic efficiency in the provision of non-network solutions for the long term interests of consumers of electricity.

(l) Each Distribution Network Service Provider must prepare and make available a Demand Side Engagement document which must include at least:

- (1) the Distribution Network Service Provider's process and procedure to develop, investigate, assess and report on potential non-network solutions;
- (2) the Distribution Network Service Provider's process to engage and consult with potential non-network providers to determine their level of interest and ability to participate in the development process for potential non-network solutions;
- (3) an outline of the Distribution Network Service Provider's process to negotiate with non-network providers to further develop a potential non-network solution;
- (4) an outline of the information a non-network provider is to include in a non-network solution proposal;
- (5) an outline of the criteria that a potential non-network provider is to meet or consider in any offers or proposals;
- (6) an outline of the principles that the Distribution Network Service Provider considers in developing the payment levels for non-network solutions;
- (7) a reference to any applicable incentive payment schemes for the implementation of non-network solutions and whether any specific criteria is applied by the Distribution Network Service Provider in its application and assessment of the scheme;
- (8) sources of relevant, publicly available information produced by the Distribution Network Service Provider that non-network providers may access;
- (9) how non-network providers may contact the Distribution Network Service Provider to request additional information or register on the Distribution Network Service Provider's

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Demand Side Engagement Register:

- (10) the process, including the information that would be provided, for updating the parties registered on the *Demand Side Engagement Register*;
- (11) the *Distribution Network Service Provider's* contact details;
- (12) the methodology to be used for determining avoided *customer transmission use of system* charges, in accordance with clauses 5.5 and 5.6.2(k1);
- (13) a summary of the factors the *Distribution Network Service Provider* takes into account when negotiating *connection agreements with embedded generators*;
- (14) the process used, and a summary of any specific regulatory requirements, for setting charges and the terms and conditions of *connection agreements* for embedded generation; and
- (15) the process for lodging a *embedded generation connection application* and the factors taken into account by the *Distribution Network Service Provider* when assessing *connection applications*.

(m)The first *Demand Side Engagement* document must be published by [commencement date + 9 months].

(n)The *Distribution Network Service Provider* must review and publish its *Demand Side Engagement* document at least once every three years from the date the first *Demand Side Engagement* document is published.

(o)Each *Distribution Network Service Provider* must establish, maintain and publish a database of non-network proposals and/or case studies that demonstrate economic assessments undertaken by the *Distribution Network Service Provider* in its consideration of non-network proposals. In selecting items to be published in the database, the *Distribution Network Service Provider* should protect the confidentiality of commercially sensitive information.

(p)Each *Distribution Network Service Provider* must establish and maintain a *Demand Side Engagement Register* for those parties wishing to be advised of relevant developments relating to clause 5.6.2AA and clause 5.6.5CA.

Distribution Annual Planning Report

(q)By the *jurisdiction specified date* each year, each *Distribution Network Service Provider* must publish the *Distribution Annual Planning Report* setting out the results of the *distribution* annual planning review for the *forward planning period* beginning on the date one day after the applicable *jurisdiction specified*

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date.

(r) If a Registered Participant, Connection Applicant, Intending Participant, AEMO, interested party or a party registered under the Distribution Network Service Provider's Demand Side Engagement Register requests a public forum on the Distribution Annual Planning Report, then within three months following the publication of that report, the Distribution Network Service Provider must conduct a public forum on that report.

(s) The Distribution Annual Planning Report must be certified by the Chief Executive Officer, and a Director or Company Secretary of the Distribution Network Service Provider that the Distribution Annual Planning Report:

(1) meets the Distribution Network Service Provider's obligations under the Rules and any regulatory obligation or requirement; and

(2) accurately represents the relevant policies of the Distribution Network Service Provider, including the Distribution Network Service Provider's asset management policies.

Contents of the Distribution Annual Planning Report

(t) The Distribution Annual Planning Report must satisfy the requirements of clause S5.8, subject to clauses 5.6.2AA(u), (v) and (w)

(u) A Distribution Network Service Provider may apply to the AER for an exemption from or variations to any requirement of clause S5.8.

(v) An application for an exemption or variation under paragraph (u) must demonstrate that, due to its operational or network characteristics, the costs of preparing the data would manifestly exceed any benefit that may reasonably be obtained from reporting the relevant data.

(w) The AER must:

(i) respond to an application under paragraph (u) within 30 business days; and

(ii) grant an exemption or variation to the requirements of clause S5.8 if satisfied that the Distribution Network Service Provider has met the test under paragraph (v).

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5.6.5A ~~[Deleted]~~ Investments subject to the regulatory test

~~(a) The AER must develop and publish the regulatory test in accordance with this clause 5.6.5A.~~

- ~~(b) The purpose of the *regulatory test* is to identify *new network investments* or *non-network* alternative options that:~~
- ~~(1) maximise the net economic benefit to all those who produce, consume and transport electricity in the *market*; or~~
 - ~~(2) in the event the option is necessitated to meet the service standards linked to the technical requirements of schedule 5.1 or in *applicable regulatory instruments*, minimise the present value of the costs of meeting those requirements.~~
- ~~(c) In so far as it relates to paragraph (b)(1), the *regulatory test* must:~~
- ~~(1) be based on a cost-benefit analysis of the future (which includes assessment of reasonable scenarios of future supply and demand conditions):~~
 - ~~(i) were the *new network investment* to take place, compared to the likely alternative option or options;~~
 - ~~(ii) were the *new network investment* not to take place;~~
 - ~~(2) as a minimum, list or provide for:~~
 - ~~(i) the classes of possible benefits that may be included as benefits, and classes of possible benefits that may not be included as benefits;~~
 - ~~(ii) the method or methods permitted for estimating the magnitude of the different classes of benefits;~~
 - ~~(iii) the classes of possible costs that may be counted as costs, and classes of possible costs that may not be included as costs;~~
 - ~~(iv) the method or methods permitted for estimating the magnitude of the different classes of costs; and~~
 - ~~(v) the appropriate method and value for specific inputs, where relevant, for determining the discount rate to be applied;~~
 - ~~(3) ensure that the identification of the likely alternative option referred to in subparagraph (1) is informed by a consideration of all genuine and practicable alternative options to the proposed *new network investment* without bias regarding:~~
 - ~~(i) energy source;~~
 - ~~(ii) technology;~~
 - ~~(iii) ownership;~~

~~(iv) the extent to which the new network investment or the non-network alternative enables intra-regional or inter-regional trading of electricity;~~

~~(v) whether it is a network or non-network alternative;~~

~~(vi) whether the new network investment or non-network alternative is intended to be regulated; or~~

~~(vii) any other factor;~~

~~(4) [Deleted]~~

~~(5) contain a requirement that where there is more than one likely alternative option to the new network investment, and no single alternative option is significantly more likely to occur than the other, then the cost-benefit analysis referred to in subparagraph (1) must be undertaken in relation to each such likely alternative option;~~

~~(6) not require the level of analysis to be disproportionate to the scale and size of the new network investment;~~

~~(7) be capable of predictable, transparent and consistent application; and~~

~~(8) provide that alternative options may include (without limitation) generation, demand side management, other network options, or the substitution of demand for electricity by the provision of alternative forms of energy.~~

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

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

~~(e) The regulatory test application guidelines must give effect to and be consistent with this clause 5.6.5A and provide guidance on the operation and application of the regulatory test.~~

~~(f) The AER must develop and publish the first regulatory test and regulatory test application guidelines under this clause 5.6.5A by 31 December 2007 and there must be a regulatory test and regulatory test application guidelines in force at all times after that date.~~

~~(g) The AER may, from time to time and in accordance with the distribution consultation procedures, amend or replace the regulatory test and regulatory test application guidelines developed and published under this clause, provided that such amendments must be published at the same time.~~

~~(h) An amendment as referred to in paragraph (g) does not apply to a current application of the regulatory test and the regulatory test application guidelines under the Rules (however described) by a Network Service Provider.~~

5.6.5B Regulatory investment test for transmission

Principles

- (a) The AER must develop and *publish* the *regulatory investment test for transmission* in accordance with the *transmission consultation procedure* and this clause 5.6.5B.
- (b) The purpose of the *regulatory investment test for transmission* 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 *market* (the *preferred option*). For the avoidance of doubt, a *preferred option* may, in the relevant circumstances, have a negative net economic benefit (that is, a net economic cost) where the *identified need* is for *reliability corrective action*.
- (c) The *regulatory investment test for transmission* must:
 - (1) be based on a cost-benefit analysis that is to include an assessment of reasonable scenarios of future supply and demand if each *credible option* were implemented compared to the situation where no option is implemented;
 - (2) not require a level of analysis that is disproportionate to the scale and likely impact of each of the *credible options* being considered;
 - (3) be capable of being applied in a predictable, transparent and consistent manner;
 - (4) require the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) to consider the following classes of market benefits that could be delivered by the *credible option*:
 - (i) changes in fuel consumption arising through different patterns of *generation dispatch*;
 - (ii) changes in voluntary *load* curtailment;
 - (iii) changes in involuntary *load shedding*, with the market benefit to be considered using a reasonable forecast of the value of electricity to consumers;
 - (iv) changes in costs for parties, other than the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be), due to:

- (A) differences in the timing of new *plant*;
- (B) differences in capital costs; and
- (C) differences in the operating and maintenance costs;
- (v) differences in the timing of *transmission investment* or joint network investment (as the case may be);
- (vi) changes in *network* losses;
- (vii) changes in *ancillary services* costs;
- (viii) competition benefits;
- (ix) 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*; and
- (x) other classes of market benefits that are:
 - (A) determined to be relevant by the *Transmission Network Service Provider* or Distribution Network Service Provider (as the case may be) and agreed to by the AER in writing before the date the relevant *project specification consultation report* is made available to other parties under clause 5.6.6; or
 - (B) specified as a class of market benefit in the *regulatory investment test for transmission*;
- (5) require a *Transmission Network Service Provider* or Distribution Network Service Provider (as the case may be) to include a quantification of all classes of market benefits which are determined to be material in the *Transmission Network Service Provider's* or Distribution Network Service Provider's (as the case may be) reasonable opinion;
- (6) require a *Transmission Network Service Provider* or Distribution Network Service Provider (as the case may be) to consider all classes of market benefits as material unless it can, in the *project assessment draft report* or in respect of a proposed *preferred option* which is subject to the exemption contained in clause 5.6.6(y), in the *project specification consultation report*, provide reasons why:
 - (i) a particular class of market benefit is likely not to affect materially the outcome of the assessment of the *credible options* under the *regulatory investment test for transmission*; or
 - (ii) the estimated cost of undertaking the analysis to quantify the market benefit is likely to be disproportionate to the scale, size

and potential benefits of each *credible option* being considered in the report;

- (7) with respect to the classes of market benefits set out in subparagraphs (4)(ii) and (iii), ensure that, if the *credible option* is for *reliability corrective action*, the quantification assessment required by paragraph (5) will only apply insofar as the market benefit delivered by the *credible option* exceeds the minimum standard required for *reliability corrective action*;
- (8) require the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* to quantify the following classes of costs:
 - (i) costs incurred in constructing or providing the *credible option*;
 - (ii) operating and maintenance costs in respect of the *credible option*;
 - (iii) the cost of complying with laws, regulations and applicable administrative requirements in relation to the construction and operation of the *credible option*; and
 - (iv) any other class of costs that are:
 - (A) determined to be relevant by the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* and agreed to by the AER in writing before the date the relevant *project specification consultation report* is made available to other parties under clause 5.6.6; or
 - (B) specified as a class of cost in the *regulatory investment test for transmission*;
- (9) provide that any cost or market benefit which cannot be measured as a cost or market benefit to *Generators, Distribution Network Service Providers, Transmission Network Service Providers* or *Distribution Network Service Provider (as the case may be)* or consumers of electricity may not be included in any analysis under the *regulatory investment test for transmission*;
- (10) specify:
 - (i) the method or methods permitted for estimating the magnitude of the different classes of market benefits;
 - (ii) the method or methods permitted for estimating the magnitude of the different classes of costs;
 - (iii) the method or methods permitted for estimating market benefits which may occur outside the *region* in which the *Transmission*

Network Service Provider's or Distribution Network Service Provider's (as the case may be) network is located; and

- (iv) the appropriate method and value for specific inputs, where relevant, for determining the discount rate or rates to be applied;
- (11) specify that a sensitivity analysis is required of any modelling relating to the cost-benefit analysis; and
- (12) reflect that the *credible option* that maximises the present value of net economic benefit to all those who produce, consume or transport electricity in the *market* may, in some circumstances, have a negative net economic benefit (that is, a net economic cost) where the *identified need* is for *reliability corrective action*.

Regulatory investment test for transmission guidelines

- (d) At the same time as the AER develops and *publishes* a proposed *regulatory investment test for transmission* under the *transmission consultation procedure*, the AER must also develop and *publish* guidelines for the operation and application of the *regulatory investment test for transmission* (the *regulatory investment test for transmission application guidelines*) in accordance with the *transmission consultation procedure* and this clause 5.6.5B.
- (e) The *regulatory investment test for transmission application guidelines* must:
 - (1) give effect to and be consistent with this clause 5.6.5B and clauses 5.6.5C, 5.6.5D, 5.6.6, 5.6.6A and 5.6.6AA; and
 - (2) provide guidance on:
 - (i) the operation and application of the *regulatory investment test for transmission*;
 - (ii) the process to be followed in applying the *regulatory investment test for transmission*; and
 - (iii) how disputes raised in relation to the *regulatory investment test for transmission* and its application will be addressed and resolved.
- (f) The *regulatory investment test for transmission application guidelines* must provide guidance and worked examples as to:
 - (1) what constitutes a *credible option*;
 - (2) acceptable methodologies for valuing the costs of a *credible option*;
 - (3) what may constitute an externality under the *regulatory investment test for transmission*;

- (4) the classes of market benefits to be considered for the purposes of paragraph (c)(4);
 - (5) the suitable modelling periods and approaches to scenario development;
 - (6) the acceptable methodologies for valuing the market benefits of a *credible option* referred to in paragraph (c), including the option value, competition benefits and market benefits that accrue across *regions*;
 - (7) the appropriate approach to undertaking a sensitivity analysis for the purposes of paragraph (c)(11);
 - (8) the appropriate approaches to assessing uncertainty and risks; and
 - (9) when a person is sufficiently committed to a *credible option* for *reliability corrective action* to be characterised as a proponent for the purposes of clause 5.6.5D(b)(7).
- (g) The AER must develop and *publish* the first *regulatory investment test for transmission* and *regulatory investment test for transmission application guidelines* by 1 July 2010, and there must be a *regulatory investment test for transmission* and *regulatory investment test for transmission application guidelines* in force at all times after that date.
- (h) The AER may, from time to time, amend or replace the *regulatory investment test for transmission* and *regulatory investment test for transmission application guidelines* in accordance with the *transmission consultation procedures*, provided the AER *publishes* any amendments to, or replacements of, the *regulatory investment test for transmission* or *regulatory investment test for transmission application guidelines* at the same time.
- (i) An amendment referred to in paragraph (h) does not apply to a current application of the *regulatory investment test for transmission* and the *regulatory investment test for transmission application guidelines* under the *Rules* by a *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be).
- (j) For the purposes of paragraph (i), a "**current application**" means any action or process initiated under the *Rules* which relies on or is referenced to the *regulatory investment test for transmission* and/or the *regulatory investment test for transmission application guidelines* and is not completed at the date of the relevant amendment to the *regulatory investment test for transmission* and/or the *regulatory investment test for transmission application guidelines*.

5.6.5C Investments subject to the regulatory investment test for transmission

(a) A *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must apply the *regulatory investment test for transmission* to a proposed *transmission investment* or *joint network investment (as the case may be)* except in circumstances where:

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- (1) the proposed *transmission investment* or *joint network investment (as the case may be)* is required to address an urgent and unforeseen *network* issue that would otherwise put at risk the *reliability* of the *transmission network* as described in paragraph (b);
- (2) the estimated capital cost of the most expensive option to address the relevant *identified need* which is technically and economically feasible is less than \$5 million (as varied in accordance with a *cost threshold determination*);
- (3) the proposed expenditure relates to maintenance or replacement and is not intended to augment the *transmission network* (including *replacement transmission network assets*);
- (4) the maintenance, or replacement expenditure also results in an *augmentation* to the *network*, and the estimated capital cost for the *augmentation* component of the proposed expenditure is less than \$5 million (as varied in accordance with a *cost threshold determination*), as allocated by the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* in accordance with recognised *cost allocation methodologies* and any applicable *AER* guidelines under rule 6A.19;
- (5) the proposed *transmission investment* or *joint network investment (as the case may be)* is an investment undertaken by a *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* which:
 - (i) re-routes one or more paths of the *network* for the long term; and
 - (ii) has a substantial primary purpose other than the need to augment the *network*;

(a *reconfiguration investment*) and which the relevant *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* reasonably estimates to have an estimated capital cost of less than \$5 million (as varied in accordance with a *cost threshold determination*) or which has, or is likely to have, no material impact on *network* users;

- (6) the proposed *transmission investment* or *joint network investment (as the case may be)* will be a *dual function asset*;

- (7) the proposed *transmission investment* or joint network investment (as the case may be) is designed to address limitations in respect of a *distribution network* notified under clause 5.6.2(e)(2);
 - (8) the proposed *transmission investment* or joint network investment (as the case may be) will be a *connection asset*; or
 - (9) the cost of the proposed *transmission investment* or joint network investment (as the case may be) is to be fully recovered through charges in relation to *negotiated transmission services*.
- (b) For the purposes of paragraph (a)(1), a proposed *transmission investment* or joint network investment (as the case may be) will be required to address an urgent and unforeseen *network* issue that would otherwise put at risk the *reliability* of the *transmission network* if:
- (1) it is necessary that the proposed *transmission investment* or joint network investment (as the case may be) be operational within 6 months of the *Transmission Network Service Provider* or Distribution Network Service Provider (as the case may be) identifying the *identified need*;
 - (2) the event or circumstances causing the *identified need* was not reasonably foreseeable by, and was beyond the reasonable control of, the *Transmission Network Service Provider* or Distribution Network Service Provider (as the case may be);
 - (3) a failure to address the *identified need* is likely to materially adversely affect the *reliability* and *secure operating state* of the *transmission network*; and
 - (4) it is not a *contingent project*.
- (c) If a proposed *transmission investment* or joint network investment (as the case may be) is determined to be required to address an urgent and unforeseen *network* issue as described in paragraph (b), the *Transmission Network Service Provider* or Distribution Network Service Provider (as the case may be) must provide the following information in its next *Annual Planning Report* following the identification of the need for the *transmission investment* or joint network investment (as the case may be):
- (1) the date when the proposed *transmission investment* or joint network investment (as the case may be) became or will become operational;
 - (2) the purpose of the proposed *transmission investment* or joint network investment (as the case may be); and
 - (3) the total cost of the proposed *transmission investment* or joint network investment (as the case may be).
- (d) With the exception of *funded augmentations*, for each proposed investment to which the *regulatory investment test for transmission* does not apply in

accordance with subparagraphs (a)(1)-(9), the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must ensure, acting reasonably, that the investment is planned and developed at least cost over the life of the investment.

- (e) A *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must not treat different parts of an integrated solution to an *identified need* as distinct and separate options for the purposes of determining whether the *regulatory investment test for transmission* applies to each of those parts.

5.6.5CA Regulatory investment test for distribution

Principles

- (a) The AER must develop and publish the regulatory investment test for distribution in accordance with the distribution consultation procedure and this clause 5.6.5CA.
- (b) The purpose of the regulatory investment test for distribution is to identify the credible option that maximises the present value of the net economic benefit to all those who produce, consume and transport electricity in the market (the preferred option). For the avoidance of doubt, a preferred option may, in the relevant circumstances, have a negative net economic benefit (that is, a net economic cost) where the identified need is for reliability corrective action.
- (c) The regulatory investment test for distribution must:
- (1) 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 no option is implemented;
 - (2) not require a level of analysis that is disproportionate to the scale and likely impact of each of the credible options being considered;
 - (3) be capable of being applied in a predictable, transparent and consistent manner;
 - (4) require the Distribution Network Service Provider to consider the following classes of market benefits that could be delivered by the credible option:
 - (i) changes in voluntary load curtailment;
 - (ii) changes in involuntary load shedding and customer interruptions caused by network outages, using a reasonable forecast of the value of electricity to customers;

(iii) changes in costs for parties, other than the *Distribution Network Service Provider*, due to:

(A) differences in the timing of new *plant*;

(B) differences in capital costs; and

(C) differences in the operating and maintenance

costs;

(iv) differences in the timing of *distribution investments*;

(v) changes in *load transfer capacity* and the potential for *load transfer capacity of embedded generating units*;

(vi) any additional option value (where this value has not already been included in the other classes or market benefits) gained or foregone from implementing the *credible option* with respect to the likely future investment needs of the *market*;

(vii) changes in *electrical energy losses*; and

(viii) any other market benefits that are determined to be relevant by the *Distribution Network Service Provider*.

(5) with respect to the classes of market benefits set out in subparagraphs (4)(i) and (ii), ensure that, if the *credible option* is for *reliability corrective action*, the consideration and any quantification assessment of these classes of market benefits will only apply insofar as the market benefit delivered by the *credible option* exceeds the minimum standard required for *reliability corrective action*;

(6) require the *Distribution Network Service Provider* to consider the following classes of costs that could be delivered by the *credible option*:

(i) costs incurred in constructing or providing the *credible option*;

(ii) operating and maintenance costs over the operating life of the *credible option*;

(iii) the cost of complying with laws, regulations and applicable administrative requirements in relation to the construction and operation of the *credible option*; and

(iv) any other class of costs that have been determined to be relevant by the *Distribution Network Service Provider*;

- (7) require a *Distribution Network Service Provider* to include a quantification of all classes of costs set out in paragraph (6) unless it can, in its *draft project assessment report* or in its *final project assessment report*, provide reasons why a particular class of cost is not expected to apply to a *credible option*;
- (8) require a *Distribution Network Service Provider*, in exercising judgement as to whether a particular class of market benefit or cost applies to a *credible option*, to have regard to any submissions received on the *project specification report* and/or *draft project assessment report* where relevant;
- (9) provide that any market benefit or cost which cannot be measured as a market benefit or a cost to *Generators, Distribution Network Service Providers, Transmission Network Service Providers, Market Customers* or consumers of electricity may not be included in any analysis under the *regulatory investment test for distribution*; and
- (10) specify:
- (i) the method or methods permitted for estimating the magnitude of the different classes of market benefits;
 - (ii) the method or methods permitted for estimating the magnitude of the different classes of costs;
 - (iii) the appropriate method and value for specific inputs, where relevant, for determining the discount rate or rates to be applied;
 - (iv) that a sensitivity analysis is required for modelling the cost-benefit analysis; and
 - (v) that the *credible option* that maximises the present value of net economic benefit to all those who produce, consume or transport electricity in the *market* may, in some circumstances, be a negative net economic benefit (that is, a net economic cost) where the *identified need* is for *reliability corrective action* or where the *Distribution Network Service Provider* does not quantify market benefits during the project assessment process.
- (d) *Distribution Network Service Providers* may, under the *regulatory investment test for distribution*, quantify each class of market benefits under paragraph (c)(4) where the *Distribution Network Service Provider* considers that:
- (1) any applicable market benefits may be material; or
 - (2) the quantification of market benefits may alter the selection of

the preferred option.

- (e) The regulatory investment test for distribution permits a single assessment of an integrated set of related and similar distribution investments.

Regulatory investment test for distribution guidelines

- (f) At the same time as the AER develops and publishes a proposed regulatory investment test for distribution under the distribution consultation procedure, the AER must also develop and publish guidelines for the operation and application of the regulatory investment test for distribution (the regulatory investment test for distribution application guidelines) in accordance with the distribution consultation procedure and this clause 5.6.5CA.
- (g) The regulatory investment test for distribution application guidelines must:
- (1) give effect to and be consistent with this clause 5.6.5CA and clauses 5.6.5CB, 5.6.5D, 5.6.6AB, and 5.6.6AC; and
 - (2) provide guidance on:
 - (i) the operation and application of the regulatory investment test for distribution;
 - (ii) the process to be followed in applying the regulatory investment test for distribution; and
 - (iii) how disputes raised in relation to the regulatory investment test for distribution and its application will be addressed and resolved.
- (h) The regulatory investment test for distribution application guidelines must provide guidance and worked examples as to:
- (1) the acceptable methodologies for undertaking the Specification Threshold Test;
 - (2) what constitutes a credible option;
 - (3) acceptable methodologies for valuing the costs of a credible option;
 - (4) what may constitute an externality under the regulatory investment test for distribution;
 - (5) the classes of market benefits to be considered for the purposes of paragraph (c)(4);

- (6) the suitable modelling periods and approaches to scenario development;
 - (7) the acceptable methodologies for valuing the market benefits of a *credible option* referred to in paragraph (c);
 - (8) the appropriate approach to undertaking a sensitivity analysis for the purposes of paragraph (c)(10)(iv);
 - (9) the appropriate approaches to assessing uncertainty and risks; and
 - (10) when a person is sufficiently committed to a *credible option* for *reliability corrective action* to be characterised as a proponent for the purposes of clause 5.6.5D(b1)(6).
-
- (i) The AER must develop and *publish* the first *regulatory investment test for distribution* and *regulatory investment test for distribution application guidelines* by [insert date], and there must be a *regulatory investment test for distribution* and *regulatory investment test for distribution application guidelines* in force at all times after that date.
 - (j) The AER may, from time to time, amend or replace the *regulatory investment test for distribution* and *regulatory investment test for distribution application guidelines* in accordance with the *distribution consultation procedures*, provided the AER publishes any amendments to, or replacements of, the *regulatory investment test for distribution* or *regulatory investment test for distribution application guidelines* at the same time.
 - (k) An amendment referred to in paragraph (j) does not apply to a current application of the *regulatory investment test for distribution* and the *regulatory investment test for distribution application guidelines* under the *Rules* by a *Distribution Network Service Provider*.
 - (l) For the purposes of paragraph (k), a “current application” means any action or process initiated under the *Rules* which relies on or is referenced to the *regulatory investment test for distribution* and/or the *regulatory investment test for distribution application guidelines* and is not completed at the date of the relevant amendment to the *regulatory investment test for distribution* and/or the *regulatory investment test for distribution application guidelines*.
 - (m) The AER may publish the *regulatory investment test for distribution*, the *regulatory investment test for distribution application guidelines*, the *regulatory investment test for transmission* and the *regulatory investment test for transmission application guidelines* in a single document.

5.6.5CB Investments subject to the regulatory investment test for distribution

- (a) A Distribution Network Service Provider must apply the regulatory investment test for distribution to a proposed distribution investment except in circumstances where:
- (1) the proposed distribution investment is required to address an urgent and unforeseen network issue that would otherwise put at risk the reliability of the distribution network as described in paragraph (c);
 - (2) the estimated capital cost of the most expensive option to address the relevant identified need which is technically and economically feasible is less than \$5 million (as varied in accordance with a cost threshold determination);
 - (3) the proposed distribution investment is designed to address limitations in respect of the transmission network notified under clause 5.6.2(e)(2). For the avoidance of doubt, such investments must be assessed under the regulatory investment test for transmission;
 - (4) the need for the proposed distribution investment has been identified through a joint planning process between a Distribution Network Service Provider and a Transmission Network Service Provider;
 - (5) the cost of the proposed distribution investment is to be fully recovered through charges in relation to negotiated distribution services, alternative control services, or unclassified distribution services;
 - (6) the proposed distribution investment will be a connection asset, which will not be part of the Distribution Network Service Provider's shared distribution network;
 - (7) the distribution investment is related to the refurbishment or replacement of existing assets and is not intended to augment the distribution network; or
 - (8) the refurbishment or replacement expenditure also results in an augmentation to the network, and the estimated capital cost for the augmentation component of the distribution investment is less than \$5 million (as varied in accordance with a cost threshold determination), as allocated by the Distribution Network Service Provider in accordance with recognised Cost Allocation Methods and any applicable AER guidelines.
- (b) If the proposed distribution investment is to be provided as a dual function asset, the proposed investment must be assessed under the regulatory investment test for distribution.

- (c) For the purposes of paragraph (a)(1), a proposed *distribution investment* will be required to address an urgent and unforeseen *network* issue that would otherwise put at risk the *reliability* of the *distribution network* if:
- (1) it is necessary that the proposed *distribution investment* be operational within 6 months of the *Distribution Network Service Provider* identifying the *identified need*;
 - (2) the event or circumstances causing the *identified need* was not reasonably foreseeable by, and was beyond the reasonable control of, the *Distribution Network Service Provider*; and
 - (3) a failure to address the *identified need* is likely to materially adversely affect the *reliability* and *secure operating state* of the *distribution network*.
- (d) With the exception of *negotiated distribution services*, for each proposed investment to which the *regulatory investment test for distribution* does not apply in accordance with paragraph (a)(1)-(89), the *Distribution Network Service Provider* must ensure, acting reasonably, that the investment is planned and developed at least cost over the life of the investment.
- (e) A *Distribution Network Service Provider* must not treat different parts of an integrated solution to an *identified need* as distinct and separate options for the purposes of determining whether the *regulatory investment test for distribution* applies to each of those parts.
- (f) The AER may review a *Distribution Network Service Provider's* policies and procedures with regard to consideration of non-network alternatives in order to determine if non-network alternatives have been duly considered.
- (g) For any proposed *distribution investment* to which the *regulatory investment test for distribution* does not apply in accordance with paragraph (a)(1) – (8), the AER may audit the *Distribution Network Service Provider's* planning and decision making for that investment to determine the extent to which the provider gave adequate consideration to *non-network* solutions in accordance with the requirements of paragraph 5.6.2AA(j) and the *Distribution Network Service Provider's Demand Side Engagement Strategy*.
- (h) The AER must publish a report by 31 March each year which details the results of any review conducted under paragraph (f) and any audit conducted under paragraph (g) in the preceding calendar year.

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5.6.5D Identification of a credible option

- (a) A *credible option* is an option (or group of options) that:

- (1) addresses the *identified need*;
 - (2) is (or are) commercially and technically feasible; and
 - (3) can be implemented in sufficient time to meet the *identified need*,
- and is (or are) identified as a *credible option* in accordance with paragraph (b).

(b) In applying the *regulatory investment test for transmission*, a *Transmission Network Service Provider* must consider, in relation to a proposed *transmission investment* to address an *identified need* other than those described in clauses 5.6.5C(a)(1)-(9), all options that could reasonably be classified as *credible options*, taking into account:

- (1) energy source;
- (2) technology;
- (3) ownership;
- (4) the extent to which the *credible option* enables *intra-regional* or *inter-regional* trading of electricity;
- (5) whether it is a *network* or *non-network* option;
- (6) whether the *credible option* is intended to be regulated;
- (7) whether the *credible option* has a proponent; and
- (8) any other factor which the *Transmission Network Service Provider* reasonably considers should be taken into account.

(b1) In applying the *regulatory investment test for distribution*, a *Distribution Network Service Provider* must consider, in relation to a proposed *distribution investment* to address an *identified need* other than those described in clauses 5.6.5CB(a)(1)-(8), all options that could reasonably be classified as *credible options*, taking into account:

- (1) energy source;
- (2) technology;
- (3) ownership;
- (4) whether it is a *network* or *non-network* option;
- (5) whether the *credible option* is intended to be regulated;
- (6) whether the *credible option* has a proponent; and
- (7) any other factor which the *Distribution Network Service Provider* reasonably considers is to be taken into account.

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- (c) The absence of a proponent does not exclude a *transmission investment*, ~~or a *distribution investment* or a *joint network investment*~~ option from being considered a *credible option*.

5.6.5E Review of Costs Thresholds

- (a) Every 3 years the AER must undertake a review (the *cost threshold review*) of the changes in the input costs used to calculate the estimated capital costs in relation to *replacement transmission network assets* and in relation to *transmission investment* as referred to in ~~the definition of *new network investment* and referred to in~~ clauses 5.6.2A(b)(6), 5.6.5C(a)(2), (4) and (5) and 5.6.6(y)(1) for the purposes of determining whether the amounts:
- (1) in relation to *replacement transmission network assets*;
 - (2) of less than \$5 million referred to in clause 5.6.5C(a)(2);
 - (3) of less than \$5 million referred to in clause 5.6.5C(a)(4);
 - (4) of less than \$5 million referred to in clause 5.6.5C(a)(5);
 - (5) of less than \$35 million referred to in clause 5.6.6(y)(1); and
 - (6) in excess of \$5 million in relation to *transmission investment* ~~as referred to in the definition of *new network investment*~~,

(each a *cost threshold*) need to be changed to maintain the appropriateness of the *cost thresholds* over time by adjusting those *cost thresholds* to reflect any increase or decrease in the input costs since 1 July 2009 in respect of the first *cost threshold review* and since the date of the previous review in respect of every subsequent *cost threshold review*.

- (a1) Every 3 years (or shorter for the first review) the AER must undertake a *cost threshold review* of the changes in the input costs used to calculate the estimated capital costs in relation to investments subject to the *regulatory investment test for distribution* and the *cost threshold* for refurbishment, replacement, and urgent and unforeseen investments subject to the *Distribution Annual Planning Report*, for the purposes of determining whether the amounts are:

- (1) \$5 million referred to in clauses 5.6.5CB(a)(2) and (9);
- (2) \$10 million referred to in clause 5.6.6AB(t)(2); and
- (3) \$20 million referred to in clause 5.6.6AB(y); and
- (4) \$2 million referred to in clause S5.87(7)

(each a *cost threshold*) needs to be changed to maintain the appropriateness of the *cost thresholds* over time by adjusting those *cost thresholds* to reflect any increase or decrease in the input costs since [insert commencement date

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of Rule] in respect of the first cost threshold review and since the date of the previous review in respect of every subsequent cost threshold review.

- (b) Each *cost threshold review* is to be commenced by the AER on 31 July of the relevant year, with the first such review to be initiated in 2012.
- (c) Within 6 weeks following the commencement of a *cost threshold review*, the AER must *publish* a draft determination outlining:
 - (1) whether the AER has formed the view that any of the *cost thresholds* need to be amended to reflect increases or decreases in the input costs to ensure that the appropriateness of the *cost thresholds* is maintained over time;
 - (2) its reasons for determining whether the *cost thresholds* need to be varied to reflect increases or decreases in the input costs;
 - (3) if there is to be a variation in a *cost threshold*, the amount of the new *cost threshold* and the date the new *cost threshold* will take effect; and
 - (4) its reasons for determining the amount of the new *cost threshold*.
- (d) At the same time as it *publishes* the draft determination under paragraph (c), the AER must *publish* a notice seeking submissions on the draft determination and which specifies the period within which written submissions can be made (the *cost threshold consultation period*) which must be no less than 5 weeks from the date of the notice.
- (e) The AER must consider any written submissions received during the *cost threshold consultation period* in making its final determination in respect of the matters outlined in paragraph (c).
- (f) The final determination must be made and *published* by the AER within 5 weeks following the end of the *cost threshold consultation period* (the *cost threshold determination*).
- (g) The AER must undertake its *cost threshold review for the regulatory investment test for distribution* at the same time it undertakes its *cost threshold review for the regulatory investment test for transmission*.
- (h) The AER may *publish* a draft determination under paragraph (c), a notice under paragraph (d), or a final determination under paragraph (e) for any *cost threshold reviews* under paragraphs (a) and (a1) as a single document.

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5.6.6 Regulatory investment test for transmission procedures

- (a) In addition to the procedures to make a *connection* to a *network* in rule 5.3, the *Transmission Network Service Provider* or *Distribution Network Service*

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Provider (as the case may be) must comply with the access arrangements and procedures set out in this clause 5.6.6 and in clause 5.6.6A.

- (b) A *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* who proposes to make a *transmission investment*, other than an investment of the kind described in clauses 5.6.5C(a)(1)-(9), must consult all *Registered Participants*, AEMO and *interested parties* on the proposed *transmission investment* or *joint network investment (as the case may be)* in accordance with this clause 5.6.6.

Project specification consultation report

- (c) A *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must prepare a report (the *project specification consultation report*), which must include:
- (1) a description of the *identified need*;
 - (2) the assumptions used in identifying the *identified need* (including, in the case of proposed *reliability corrective action*, why the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* considers *reliability corrective action* is necessary);
 - (3) the technical characteristics of the *identified need* that a non *network* option would be required to deliver, such as:
 - (i) the size of *load* reduction or additional supply;
 - (ii) location; and
 - (iii) operating profile;
 - (4) if applicable, reference to any discussion on the description of the *identified need* or the *credible options* in respect of that *identified need* in the most recent *National Transmission Network Development Plan*;
 - (5) a description of all *credible options* of which the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* is aware that address the *identified need*, which may include, without limitation, alternative *transmission* options, *interconnectors*, *generation*, demand side management, *market network services* or other *network* options;
 - (6) for each *credible option* identified in accordance with subparagraph (5), information about:
 - (i) the technical characteristics of the *credible option*;
 - (ii) whether the *credible option* is reasonably likely to have a material *inter-regional* impact;

- (iii) the classes of market benefits that the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) considers are likely not to be material in accordance with clause 5.6.5B(c)(6), together with reasons of why the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) considers that these classes of market benefits are not likely to be material;
 - (iv) the estimated construction timetable and commissioning date; and
 - (v) to the extent practicable, the total indicative capital and operating and maintenance costs.
- (d) The *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) must make available to all *Registered Participants*, *AEMO* and other *interested parties* the *project specification consultation report*.
- (e) The *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) must:
- (1) provide a summary of the *project specification consultation report* to *AEMO* within 5 *business days* of making the *project specification consultation report*; and
 - (2) upon request by an *interested party*, provide a copy of the *project specification consultation report* to that person within 3 *business days* of the request.
- (f) Within 3 *business days* of receipt of the summary, *AEMO* must *publish* the summary of the *project specification consultation report* on its website.
- (g) The *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) must seek submissions from *Registered Participants*, *AEMO* and *interested parties* on the *credible options* presented, and the issues addressed, in the *project specification consultation report*.
- (h) The period for consultation period referred to in paragraph (g) must be not less than 12 weeks from the date that *AEMO publishes* the summary of the *project specification consultation report* on its website.
- (i) A *Transmission Network Service Provider* may discharge its obligation under paragraph (d) to make the *project specification consultation report* available by including the *project specification consultation report* as part of its *Annual Planning Report*.
- (i1) A *Distribution Network Service Provider* may discharge its obligation under paragraph (d) to make the *project specification consultation report*

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available by including the project specification consultation report as part of its Distribution Annual Planning Report.

Project assessment draft report

- (j). If the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) elects to proceed with the proposed *transmission investment* or *joint network investment* (as the case may be), within 12 months of the end date of the consultation period referred to in paragraph (h), or such longer time period as is agreed in writing by the AER, the *Transmission Network Service Provider* must prepare a report (the *project assessment draft report*), having regard to the submissions received, if any, under paragraph (g) and make that report available to all *Registered Participants*, AEMO and *interested parties*.
- (k) The *project assessment draft report* must include:
- (1) a description of each *credible option* assessed;
 - (2) a summary of, and commentary on, the submissions to the *project specification consultation report*;
 - (3) a quantification of the costs, including a breakdown of operating and capital expenditure, and classes of material market benefit for each *credible option*;
 - (4) a detailed description of the methodologies used in quantifying each class of material market benefit and cost;
 - (5) reasons why the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) has determined that a class or classes of market benefit are not material;
 - (6) the identification of any class of market benefit estimated to arise outside the *Transmission Network Service Provider's region*, and quantification of the value of such market benefits (in aggregate across all *regions*);
 - (7) the results of a net present value analysis of each *credible option* and accompanying explanatory statements regarding the results;
 - (8) the identification of the proposed *preferred option*;
 - (9) for the proposed *preferred option* identified under subparagraph (8), the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) must provide:
 - (i) details of the technical characteristics;

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- (ii) the estimated construction timetable and commissioning date;
 - (iii) if the proposed *preferred option* is likely to have a *material inter-regional network impact*, and if the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* has received an *augmentation technical report*, that report; and
 - (iv) a statement and the accompanying detailed analysis that the *preferred option* satisfies the *regulatory investment test for transmission*.
- (l) If a *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* elects to proceed with a proposed *transmission investment* or *joint network investment (as the case may be)* which is for *reliability corrective action*, it can only do so where the proposed *preferred option* has a proponent. The identity of that proponent must be included in the *project assessment draft report*.
- (m) A *Transmission Network Service Provider* may discharge its obligation under paragraph (j) to make the *project assessment draft report* available by including the *project assessment draft report* as part of its *Annual Planning Report* provided its *Annual Planning Report* is published within 12 months of the end date of the consultation period required under paragraph (h) or within 12 months of the end of such longer time period as is agreed by the *AER* in writing under paragraph (j).
- (m1) A *Distribution Network Service Provider* may discharge its obligation under paragraph (j) to make the *project assessment draft report* available by including the *project assessment draft report* as part of its *Distribution Annual Planning Report* provided its *Distribution Annual Planning Report* is published within 12 months of the end date of the consultation period required under paragraph (h) or within 12 months of the end of such longer time period as is agreed by the *AER* in writing under paragraph (j).
- (n) The *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must:
- (1) provide a summary of the *project assessment draft report* to *AEMO* within 5 *business days* of making the *project assessment draft report*; and
 - (2) upon request by an *interested party*, provide a copy of the *project assessment draft report* to that person within 3 *business days* of the request.
- (o) Within 3 *business days* of receipt of the summary, *AEMO* must *publish* the summary of the *project assessment draft report* on its website.

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- (p) The *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must seek submissions from *Registered Participants*, *AEMO* and *interested parties* on the preferred option presented, and the issues addressed, in the *project assessment draft report*.
- (q) The period for consultation referred to in paragraph (p) must be not less than 6 weeks from the date that *AEMO publishes* the summary of the report on its website.
- (r) Within 4 weeks after the end of the consultation period required under paragraph (q), at the request of an *interested party*, a *Registered Participant* or *AEMO* (each being a **relevant party** for the purposes of this paragraph), the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must meet with the relevant party if a meeting is requested by two or more relevant parties and may meet with a relevant party if after having considered all submissions, the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)*, acting reasonably, considers that the meeting is necessary.

Project assessment conclusions report

(s) As soon as practicable after the end of the consultation period on the *project assessment draft report* referred to in paragraph (q), the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must, having regard to the submissions received, if any, under paragraph (p) and the matters discussed at any meetings held, if any, under paragraph (r), prepare and make available to all *Registered Participants*, *AEMO* and *interested parties* and *publish* a report (the *project assessment conclusions report*).

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(t) If:

- (1) the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* is exempt from making a *project assessment draft report* under paragraph (y); and
- (2) the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* elects to proceed with the proposed *transmission investment* or *joint network investment (as the case may be)*, within 12 months of the end date of the period for consultation referred to in paragraph (h), or within 12 months of the end date of such longer time period as is agreed in writing by the **AER**,

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the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must, having regard to the submissions received, if any, under paragraph (h) as soon as practicable prepare and make available to all *Registered Participants*, *AEMO* and

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interested parties and *publish* a report (the *project assessment conclusions report*).

- (u) The *project assessment conclusions report* must set out:
 - (3) the matters detailed in the *project assessment draft report* as required under paragraph (k); and
 - (4) a summary of, and the *Transmission Network Service Provider's* or *Distribution Network Service Provider's* (as the case may be) response to, submissions received, if any, from *interested parties* sought under paragraph (p).
- (v) The *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) must:
 - (1) provide a summary of the *project assessment conclusions report* to AEMO within 5 *business days* of making the *project assessment conclusions report*; and
 - (2) upon request by an *interested party*, provide a copy of the *project assessment conclusions report* to that person within 3 *business days* of the request.
- (w) Within 3 *business days* of receipt of the summary, AEMO must *publish* the summary of the *project assessment conclusions report* on its website.
- (x) A *Transmission Network Service Provider* may discharge its obligation under paragraph (s) and (t) to make the *project assessment conclusions report* available by including the *project assessment conclusions report* as part of its *Annual Planning Report* provided that *Annual Planning Report* is *published* within 4 weeks from the date of making available the *project assessment conclusions report* under paragraph (s) or (t), as the case may be.

(x1) A *Distribution Network Service Provider* may discharge its obligation under paragraph (s) and (t) to make the *project assessment conclusions report* available by including the *project assessment conclusions report* as part of its *Distribution Annual Planning Report* provided that the *Distribution Annual Planning Report* is *published* within 4 weeks from the date of making available the *project assessment conclusions report* under paragraph (s) or (t), as the case may be.

Exemption from preparing a project assessment draft report for proposed transmission investments without material market benefits

- (y) A *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) is exempt from paragraphs (j) to (r) if:

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- (1) the estimated capital cost of the proposed *preferred option* is less than \$35 million (as varied in accordance with a *cost threshold determination*);
- (2) the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* has identified in its *project specification consultation report*:
- (i) its proposed *preferred option*;
 - (ii) its reasons for the proposed *preferred option*; and
 - (iii) that its proposed *transmission investment* or *joint network investment (as the case may be)* has the benefit of this exemption;
- (3) the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* considers, in accordance with clause 5.6.5B(c)(6), that the proposed *preferred option* and any other *credible option* in respect of the *identified need* will not have a material market benefit for the classes of market benefit specified in clause 5.6.5B(c)(4) except those classes specified in clauses 5.6.5B(c)(4)(ii) and (iii), and has stated this in its *project specification consultation report*; and
- (4) the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* forms the view that no submissions were received on the *project specification consultation report* which identified additional *credible options* that could deliver a material market benefit.
- (z) The *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must address in the *project assessment conclusions report* any issues that were raised in relation to a proposed *preferred option* to which paragraph (y) applies during the consultation on the *project specification consultation report*.

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5.6.6A Disputes in relation to application of regulatory investment test for transmission

- (a) *Registered Participants*, the *AEMC*, *Connection Applicants*, *Intending Participants*, *AEMO* and *interested parties* may, by notice to the *AER*, dispute conclusions made by the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* in the *project assessment conclusions report* in relation to:
- (1) the application of the *regulatory investment test for transmission*;
 - (2) the basis on which the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* has

classified the *preferred option* as being for *reliability corrective action*; or

- (3) the *Transmission Network Service Provider's* or *Distribution Network Service Provider's* (as the case may be) assessment regarding whether the *preferred option* will have a *material inter-network impact*, in accordance with any criteria for a *material inter-network impact* that are in force at the time of the preparation of the *project assessment conclusions report*.
- (b) A dispute under this clause 5.6.6A may not be raised in relation to any matters set out in the *project assessment conclusions report* which:
 - (1) are treated as externalities by the *regulatory investment test for transmission*; or
 - (2) relate to an individual's personal detriment or property rights.
 - (c) Within 30 days of the date of *publication* of the *project assessment conclusions report* under clause 5.6.6(s) or (t) (as the case may be), the party disputing a conclusion made in the *project assessment conclusions report* (a *disputing party*) must:
 - (1) give notice of the dispute in writing setting out the grounds for the dispute (the *dispute notice*) to the AER; and
 - (2) at the same time, give a copy of the *dispute notice* to the relevant *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be).
 - (d) Subject to paragraph (e)(3), within 40 days of receipt of the *dispute notice* or within an additional period of up to 60 days where the AER notifies *interested parties* that the additional time is required to make a determination because of the complexity or difficulty of the issues involved, the AER must either:
 - (1) reject any dispute by written notice to the person who initiated the dispute if the AER considers that the grounds for the dispute are misconceived or lacking in substance; and
 - (2) notify the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) that the dispute has been rejected; or
 - (3) subject to paragraph (f), make and *publish* a determination:
 - (i) directing the *Transmission Network Service Provider* to amend the matters set out in the *project assessment conclusions report*;
or

- (ii) stating that, based on the grounds of the dispute, the *Transmission Network Service Provider* will not be required to amend the *project assessment conclusions report*.
- (d1) A *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* must comply with an *AER* determination made under paragraph (d)(3)(i) within a timeframe specified by the *AER* in its determination.
- (e) In making a determination under paragraph (d)(3), the *AER*:
- (1) must only take into account information and analysis that the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* could reasonably be expected to have considered or undertaken at the time that it performed the *regulatory investment test for transmission*;
 - (2) must *publish* its reasons for making a determination;
 - (3) may request further information regarding the dispute from the *disputing party* or the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* in which case the period of time for rejecting a dispute or issuing a determination under paragraph (d) is extended by the time it takes the relevant party to provide the requested further information to the *AER*;
 - (4) may disregard any matter raised by the *disputing party* or the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* that is misconceived or lacking in substance; and
 - (5) where making a determination under subparagraph (d)(3)(i), must specify a reasonable timeframe for the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* to comply with the *AER*'s direction to amend the matters set out in the *project assessment conclusions report*.
- (f) The *AER* may only make a determination under subparagraph (d)(3)(i) if it determines that:
- (1) the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* has not correctly applied the *regulatory investment test for transmission* in accordance with the *Rules*;
 - (2) the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* has erroneously classified the *preferred option* as being for *reliability corrective action*;
 - (3) the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* has not correctly assessed

whether the *preferred option* will have a *material inter-network impact*; or

- (4) there was a manifest error in the calculations performed by the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* in applying the *regulatory investment test for transmission*.
- (g) A *disputing party* or the *Transmission Network Service Provider* or the *Distribution Network Service Provider* (as the case may be) must as soon as reasonably practicable provide any information requested under paragraph (e)(3) to the AER.
- (h) The relevant period of time in which the AER must make a determination under paragraph (d)(3) is automatically extended by the period of time taken by the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* or a *disputing party* to provide any additional information requested by the AER under this clause 5.6.6A, provided:
 - (1) the AER makes the request for the additional information at least 7 *business days* prior to the expiry of the relevant period; and
 - (2) the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* or the *disputing party* provides the additional information within 14 *business days* of receipt of the request.

5.6.6AA Determination that proposed transmission investment satisfies the regulatory investment test for transmission

- (a) After the expiry of the 30 day period referred to in clause 5.6.6A(c) and where a *preferred option* is not for *reliability corrective action*, the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)* may request, in writing to the AER, that the AER make a determination as to whether the *preferred option* satisfies the *regulatory investment test for transmission*.
- (b) The AER:
 - (1) must, within 120 *business days* of receipt of the request from the applicant, subject to paragraph (c), make and *publish* a determination, including reasons for its determination;
 - (2) must use the findings and recommendations in the *project assessment conclusions report* in making its determination under subparagraph (1);
 - (3) may request further information from the *Transmission Network Service Provider* or *Distribution Network Service Provider (as the case may be)*; and

- (4) may have regard to any other matter the AER considers relevant.
- (c) The relevant period of time in which the AER must make a determination under paragraph (b) is automatically extended by the period of time taken by the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) to provide any additional information requested by the AER under this clause 5.6.6AA, provided:
- (1) the AER makes the request for the additional information at least 7 *business days* prior to the expiry of the relevant period; and
 - (2) the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) provides the additional information within 14 *business days* of receipt of the request.

Costs determinations

- (d) Where the AER engages a consultant to assist in making a determination under clauses 5.6.6A, ~~and~~ 5.6.6AA, and 5.6.6AC, the AER may make a costs determination.
- (e) Where a costs determination is made, the AER may:
- (1) render the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) an invoice for the costs; or
 - (2) determine that the costs should:
 - (i) be shared by all the parties to the dispute, whether in the same proportion or differing proportions; or
 - (ii) be borne by a party or parties to the dispute other than the *Transmission Network Service Provider* or *Distribution Network Service Provider* (as the case may be) whether in the same proportion or differing proportions; and
 - (iii) the AER may render invoices accordingly.
- (f) If an invoice is rendered, the AER must specify a time period for the payment of the invoice that is no later than 30 *business days* from the date the AER makes a determination under paragraph (d).

5.6.6AB Regulatory investment test for distribution procedures

- (a) In addition to the procedures to make a connection to a network in rule 5.3, the *Distribution Network Service Provider* must comply with the access arrangements and procedures set out in this clause 5.6.6AB and in clause 5.6.6AC.
- (b) A *Distribution Network Service Provider* who proposes to make a distribution investment, other than an investment of the kind described in clauses 5.6.5CB(a)(1)-(8), must consult with all *Registered Participants*,

AEMO, interested parties, non network providers and parties on the Distribution Network Service Provider's Demand Side Engagement Register on the proposed distribution investment in accordance with this clause 5.6.6AB.

Specification Threshold Test

(c) The Distribution Network Service Provider must assess an identified need for a proposed investment against the Specification Threshold Test.

(d) In undertaking the Specification Threshold Test, the Distribution Network Service Provider must assess:

(1) the reasons (identified need) for the proposed distribution investment, including the assumptions used in identifying the identified need; and

(2) technically feasible non-network options that can either defer or remove the need for the proposed distribution investment to address the identified need.

(e) If after undertaking the Specification Threshold Test the Distribution Network Service Provider determines that there are no technically feasible non-network options to either defer or remove the need for the proposed distribution investment to address the identified need, then the Distribution Network Service Provider:

(1) must make available a Specification Threshold Test report on its website which outlines its assessment against the Specification Threshold Test and the methodologies and assumptions used to make this assessment, as soon as practicable after the completion of the assessment. The Specification Threshold Test report must be published within 5 business days of the report being made available on the Distribution Network Service Provider's website; and

(2) is not required to publish a project specification report under paragraph (g).

Project specification stage

(f) The Distribution Network Service Provider must carry out the project specification stage where a Specification Threshold Test assessment by the Distribution Network Service Provider determines that the identified need has the potential for technically feasible non-network options either to defer or remove the need for the proposed distribution investment to address the identified need.

(g) A Distribution Network Service Provider will be required to consult on the identified need for the proposed distribution investment through the publication of a project specification report.

(h) A Distribution Network Service Provider must prepare a report (the project specification report), which must include:

- (1) a description of the identified need;
- (2) the assumptions used in identifying the identified need (including, in the case of proposed reliability corrective action, why the Distribution Network Service Provider considers reliability corrective action is necessary);
- (3) the relevant annual deferred augmentation charge associated with the identified need;
- (4) a summary of the Distribution Network Service Provider's assessment of the identified need against the Specification Threshold Test, including:
 - (i) technically feasible non-network options either to defer or remove the need for the proposed distribution investment to address the identified need; and
 - (ii) the methodology and assumptions used by the Distribution Network Service Provider in undertaking the Specification Threshold Test.
- (5) the technical characteristics of the identified need that a non-network option would be required to deliver, such as:
 - (i) the size of load reduction or additional supply;
 - (ii) location;
 - (iii) contribution to power system security or reliability;
 - (iv) contribution to power system fault levels as determined under clause 4.6.1; and
 - (v) the operating profile;
- (6) a description of all options. These options can include, but are not limited to, alternative distribution options, generation options, demand side management, and options involving other transmission and distribution networks and could include groups of options; and
- (7) for each option, the Distribution Network Service Provider must provide information, to the extent practicable, on:
 - (i) a technical definition or characteristics of the option;
 - (ii) the estimated construction timetable and commissioning date where the option is a new network investment

option; and

(iii) the total indicative capital costs and operating costs.

- (i) The project specification report must be published in a timely manner having regard to the ability of parties to identify the scope for, and develop, alternative investment options or variants to the proposed investment options.
- (j) At the same time as publishing the project specification report, the Distribution Network Service Provider must notify parties on the Distribution Network Service Provider's Demand Side Engagement Register of the report's publication.
- (k) A Distribution Network Service Provider must publish any preliminary or supplementary information where such information is likely to enhance the ability of a party to engage effectively in the project specification report consultation process.
- (l) Registered Participants, AEMO, interested parties, non-network providers and parties on the Distribution Network Service Provider's Demand Side Engagement Register must be provided with not less than four months in which to make submissions on the project specification report from the date that the Distribution Network Service Provider publishes a project specification report.

Draft project assessment report

(m) If the Distribution Network Service Provider elects to proceed with the proposed distribution investment, within:

- (1) 12 months, or
- (2) any longer time period as agreed to in writing by the AER, or
- (3) where relevant, the end of the consultation period on a project specification report or the publication by the Distribution Network Service Provider of a Specification Threshold Test report.

the Distribution Network Service Provider must prepare a draft project assessment report, having regard to the submissions received, if any, and publish that report.

(n) The draft project assessment report must include the following:

- (1) a description of the identified need for the investment,
- (2) the assumptions used in identifying the identified need (including, in the case of proposed reliability corrective action, reasons that the Distribution Network Service Provider considers reliability corrective action is necessary);

- (3) if applicable, a summary of, and commentary on, the submissions on the *project specification report*;
- (4) a description of each *credible option* assessed;
- (5) where relevant, a quantification of each applicable market benefit for each *credible option*;
- (6) a quantification of each applicable cost for each *credible option*, including a breakdown of operating and capital expenditure;
- (7) a detailed description of the methodologies used in quantifying each class of cost and market benefit;
- (8) where relevant, the reasons why the *Distribution Network Service Provider* has determined that a class or classes of market benefits or costs do not apply to a *credible option*;
- (9) the results of a net present value analysis of each *credible option* and accompanying explanatory statements regarding the results;
- (10) the identification of the proposed *preferred option*; and
- (11) for the proposed *preferred option*, the *Distribution Network Service Provider* must provide:
 - (i) details of the technical characteristics;
 - (ii) the estimated construction timetable and commissioning date;
 - (iii) the indicative capital and operational cost; and
 - (iv) a statement and accompanying detailed analysis that the *preferred option* satisfies the *regulatory investment test for distribution*.
- (o) The *Distribution Network Service Provider* must seek submissions from *Registered Participants*, *AEMO*, *non-network providers*, *interested parties* and parties on the *Distribution Network Service Provider's Demand Side Engagement Register* on the preferred option presented, and the issues addressed, in the *draft project assessment report*.
- (p) If the preferred option has the potential to, or is likely to, have an adverse impact on the quality of service experienced by consumers of electricity, including:
 - (1) estimated changes in voluntary *load* curtailment by consumers of electricity; and
 - (2) estimated changes in involuntary *load* shedding and *customer*

interruptions caused by network outages.

then the *Distribution Network Service Provider* must consult directly with those affected customers.

- (q) The consultation period on the *draft project assessment report* must not be less than 30 *business days* from the publication of the report.
- (r) Within 4 weeks of the end of the consultation period on the *draft project assessment report*, at the request of an *interested party* or a *Registered Participant*, *AEMO*, *non-network provider* or a party on the *Distribution Network Service Provider's Demand Side Engagement Register*, the *Distribution Network Service Provider* must use its best endeavours to meet with that party if:
- (1) having considered all submissions, the *Distribution Network Service Provider*, acting reasonably, considers that the meeting is necessary or desirable; or
 - (2) a meeting is requested by two or more parties under this clause.
- (s) If a *Distribution Network Service Provider* elects to proceed with a proposed *distribution investment* which is for *reliability corrective action*, it can only do so where the proposed *preferred option* has a proponent. The identity of that proponent must be included in the *draft project assessment report*.

Exemption from the draft project assessment report

- (t) A *Distribution Network Service Provider* is exempt from publishing a *draft project assessment report* under paragraph (m) if:
- (1) the *Distribution Network Service Provider* has published a *Specification Threshold Test* report which determined that there is no material potential for *non-network* options either to defer or remove the need for the proposed *distribution investment* to address the *identified need*; and
 - (2) the estimated capital cost of proposed *preferred option* is less than \$10 million (varied in accordance with a *cost threshold determination*).

Final project assessment report

- (u) As soon as practicable after the end of the consultation period on the *draft project assessment report*, the *Distribution Network Service Provider* must, having regard to any submissions received on the *draft project assessment report*, publish a *final project assessment report*.
- (v) If the proposed *distribution investment* is exempt from the *draft project assessment report* stage under paragraph (t), the *Distribution Network Service Provider* must publish the *final project assessment report* as soon as practicable after the publication of the relevant *Specification Threshold Test*

report.

(w) At the same time as publishing the final project assessment report, the Distribution Network Service Provider must notify parties on the Distribution Network Service Provider's Demand Side Engagement Register of the report's publication.

(x) The final project assessment report must set out:

(1) the matters detailed in the draft project assessment report as required under paragraph (n); and

(2) summarise any submissions received on the draft project assessment report and the Distribution Network Service Provider's response to each such submission.

(y) If the preferred option outlined in the final project assessment report has an estimated capital cost less than \$20 million (varied in accordance with a cost threshold determination), the Distribution Network Service Provider may discharge its obligations to publish its final project assessment report under paragraphs (u) and (v) by including the final project assessment report as part of its Distribution Annual Planning Report.

(z) The AER must take into account a Distribution Network Service Provider's application of the regulatory investment test for distribution and final project assessment reports when considering a Distribution Network Service Provider's regulatory proposal under Chapter 6 of the Rules.

5.6.6AC Disputes in relation to application of regulatory investment test for distribution

(a) Registered Participants, the AEMC, Connection Applicants, Intending Participants, AEMO, interested parties, and non-network providers may, by notice to the AER, dispute matters set out by the Distribution Network Service Provider in the final project assessment report in relation to the application of the regulatory investment test for distribution.

(b) A dispute under this clause 5.6.6AC may not be raised in relation to any matters set out in the final project assessment report which:

(1) are treated as externalities by the regulatory investment test for distribution; or

(2) relate to an individual's personal detriment or property rights.

(c) Within 30 days of the date of publication of the final project assessment report under clause 5.6.6AB(u) or (v) (as the case may be), the party disputing a conclusion made in the final project assessment report (a disputing party) must:

(1) give notice of the dispute in writing setting out the grounds for the dispute (the dispute notice) to the AER; and

- (2) at the same time, give a copy of the *dispute notice* to the relevant *Distribution Network Service Provider*.
- (d) Subject to paragraph (f)(3), within 40 days of receipt of the *dispute notice* or within an additional period of up to 60 days where the *AER* notifies a relevant party that the additional time is required to make a determination because of the complexity or difficulty of the issues involved, the *AER* must either:
- (1) reject any dispute by written notice to the person who initiated the dispute if the *AER* considers that the grounds for the dispute are invalid, misconceived or lacking in substance; and
 - (2) notify the *Distribution Network Service Provider* that the dispute has been rejected; or
 - (3) subject to paragraph (f), make and *publish* a determination:
 - (i) directing the *Distribution Network Service Provider* to amend the matters set out in the *final project assessment report*; or
 - (ii) stating that, based on the grounds of the dispute, the *Distribution Network Service Provider* will not be required to amend the *final project assessment report*.
- (e) A *Distribution Network Service Provider* must comply with an *AER* determination made under subparagraph (d)(3)(i) within a timeframe specified by the *AER* in its determination.
- (f) In making a determination under paragraph (d)(3), the *AER*:
- (1) must only take into account information and analysis that the *Distribution Network Service Provider* could reasonably be expected to have considered or undertaken at the time that it performed the *regulatory investment test for distribution*;
 - (2) must *publish* its reasons for making a determination;
 - (3) may request further information regarding the dispute from the *disputing party* or the *Distribution Network Service Provider* in which case the period of time for rejecting a dispute or issuing a determination under paragraph (d) is extended by the time it takes the relevant party to provide the requested further information to the *AER*;
 - (4) may disregard any matter raised by the *disputing party* or the *Distribution Network Service Provider* that is misconceived or lacking in substance; and
 - (5) where making a determination under subparagraph (d)(3)(i), must specify a reasonable timeframe for the *Distribution Network Service Provider* to comply with the *AER*'s direction to amend the matters set

out in the final project assessment report.

(g) The AER may only make a determination under subparagraph (d)(3)(i) if it determines that:

(1) the Distribution Network Service Provider has not correctly applied the regulatory investment test for distribution in accordance with the Rules; or

(2) there was a manifest error in the calculations performed by the Distribution Network Service Provider in applying the regulatory investment test for distribution.

(h) A disputing party or the Distribution Network Service Provider (as the case may be) must as soon as reasonably practicable provide any information requested under paragraph (f)(3) to the AER.

(i) The relevant period of time in which the AER must make a determination under paragraph (d)(3) is automatically extended by the period of time taken by the Distribution Network Service Provider or a disputing party to provide any additional information requested by the AER under this clause 5.6.6AC, provided:

(1) the AER makes the request for the additional information at least 7 business days prior to the expiry of the relevant period; and

(2) the Distribution Network Service Provider or the disputing party provides the additional information within 14 business days of receipt of the request.

(j) In granting an exemption from the dispute resolution process, the AER may consider if the need for the relevant distribution investment to proceed outweighs the potential benefits from conducting the dispute resolution process.

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Schedule 5.1 Network Performance Requirements to be Provided or Co-ordinated by Network Service Providers

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S5.1.9 Protection systems and fault clearance times

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(j) Where practicable and economic to achieve, ~~new network~~ investments should meet the *system standard* for *fault clearance times* as specified in clause S5.1a.8 for two phase to ground *short circuit faults*.

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Schedule 5.8 Distribution Annual Reporting Requirements

This schedule sets out the reporting requirements that must be provided by the relevant *Distribution Network Service Provider* under clause 5.6.2AA(t). The *Distribution Network Service Provider* must:

- (1) set out information regarding the *Distribution Network Service Provider* and its *network*, including:
 - (i) a description of its *network*;
 - (ii) a description of the *Distribution Network Service Provider's* operating environment;
 - (iii) the number and types of *distribution assets*;
 - (iv) methodologies used in preparing the *Distribution Annual Planning Report*, including methodologies used to identify *system limitations* and any assumptions applied; and
 - (v) analysis and explanation of any aspects of forecasts and information provided in the *Distribution Annual Planning Report* that have changed significantly from previous forecasts and information in the preceding year. For the avoidance of doubt, significant changes in forecasts must be analysed and explained;

- (2) forecasts for the *forward planning period*, including at least:
 - (i) description of the forecasting methodology used, sources of input information, and the assumptions applied;
 - (ii) *load* forecasts for:
 - (A) the *network* as a whole;
 - (B) *transmission-distribution connection points*;
 - (C) *sub-transmission lines*; and
 - (D) *zone substations*,including for each item specified above:
 - (E) *total capacity*;
 - (F) *firm delivery capacity* for summer periods and winter periods;
 - (G) *peak load* (summer or winter and the number of hours per year that 95% of peak is expected to be

reached);

(H) power factor at time of peak load;

(I) load transfer capacities; and

(J) generation capacity of embedded generating units;

(iii) forecasts of future transmission-distribution connection points, sub-transmission lines and zone substations, including for each future transmission-distribution connection point and zone substation:

(A) its location;

(B) future loading level; and

(C) proposed commissioning timing (best estimate of month and year);

(iv) forecasts of reliability targets set by any regulatory obligation or requirement; and

(v) forecasts of any factors that may have a material impact on the network, including factors affecting:

(A) fault levels;

(B) voltage levels;

(C) other power system security requirements; and

(D) ageing and potentially unreliable assets;

(3) for any primary distribution feeders identified by the Distribution Network Service Provider that:

(i) in the first year of the forward planning period, are forecast to experience an overload, or

(ii) in the next two years, are forecast to exceed 100% of its normal cyclic rating (in summer periods or winter periods) under normal operating conditions.

the Distribution Network Service Provider must set out:

(iii) the location of the primary distribution feeder;

(iv) the extent of the overload in the first year of the forward planning period;

(v) the forecast load in the following two years and the

extent the forecast load would exceed the normal cyclic rating (in summer periods or winter periods);

(vi) any technically feasible options being considered by the Distribution Network Service Provider to address the overload or forecast load that exceeds the normal cyclic rating; and

(vii) where an estimated reduction in forecast load would defer a forecast overload for a period of 12 months, include:

(A) best estimate of the month and year in which the overload is forecast to occur;

(B) a summary of the location of relevant connection points at which the estimated reduction in forecast load would defer the overload;

(C) the estimated reduction in forecast load in MW needed to defer the forecast system limitation;

(4) identify system limitations for sub-transmission lines and zone substations, including at least:

(i) best estimates of the location and timing (month and year) of the system limitation;

(ii) analysis of any potential for load transfer capacity between supply points that may decrease the impact of the system limitation or defer the requirement for investment;

(iii) impact of the system limitation, if any, on the capacity at transmission distribution connection points;

(iv) discussion of the potential solutions that may address the system limitation in the forward planning period, if a solution is required; and

(v) where an estimated reduction in forecast load would defer a forecast system limitation for a period of, at least, 12 months, include:

(A) the month and year in which a system limitation is forecast to occur as required under subparagraph (ii);

(B) the relevant connection points at which the estimated reduction in forecast load may occur; and

- (C) the estimated reduction in forecast load in MW needed;
- (5) provide a summary of each proposed *distribution investment* for which the *regulatory investment test for distribution* has been completed or is in progress, including:
- (i) a summary of the outcomes or progress of the *regulatory investment test for distribution* including any consultation undertaken under the *Demand Side Engagement Strategy* or any other consultation on the investment;
 - (ii) a description of the investment required and how it will address the *system limitation*;
 - (iii) estimation of the month and year of the investment in which it is proposed that the investment will become operational;
 - (iv) the estimated capital cost;
 - (v) a summary of any other options considered or being considered (to the extent reasonably practicable) and, if the *regulatory investment test for distribution* is in progress, the *Distribution Network Service Provider's preferred option* and the reasons for selecting the preferred option;
 - (vi) any factors that may result in the investment requirements (or preferred option) being altered; and
 - (vii) any impacts on *Network Users*, including any potential material impacts on *connection charges* and *distribution use of system charges* that have been estimated;
- (6) for each identified *system limitation* which will require a *regulatory investment test for distribution*, provide an estimate of the month and year when the *regulatory investment test for distribution* is expected to commence;
- (7) for all committed investments to be carried out within the *forward planning period* with an estimated capital cost of \$2 million or more (as varied by a *cost threshold determination*) that are to address a refurbishment or replacement need, or an urgent and unforeseen *network issue* as described in clause 5.6.5CB(c), provide:
- (i) a brief description of the investment, including its location;
 - (ii) best estimates of the date (month and year) the investment was or would become operational;

- (iii) the purpose of the investment;
 - (iv) the estimated capital cost of the investment; and
 - (v) an explanation of the ranking of any reasonable *credible options* to the committed project which are being or have been considered by the *Distribution Network Service Provider*. These alternatives could include, but are not limited to, *generation options*, *demand side options*, and options involving other *distribution or transmission networks*.
- (8) provide information on any joint planning undertaken with the *Transmission Network Service Provider* in the preceding year, including:
 - (i) a summary of the process and methodology used by the *Network Service Providers* to undertake joint planning;
 - (ii) any planned *joint network investments*; and
 - (iii) where additional information on the joint planning and *joint network investments* may be obtained.
- (9) provide information on any joint planning undertaken with other *Distribution Network Service Providers* in the preceding year, including:
 - (i) a summary of the process and methodology used by the *Distribution Network Service Providers* to undertake joint planning;
 - (ii) any planned investments that have been discussed through this process, including estimated capital costs and estimated timing (month and year) of the investment; and
 - (iii) where additional information on the investments may be obtained.
- (10) provide information on the performance of the *Distribution Network Service Provider's network*, including a summary description of the:
 - (i) *reliability standards* that apply, including the relevant codes, standards and guidelines;
 - (ii) quality of *supply standards* that apply, including the relevant codes, standards and guidelines;
 - (iii) performance of the *distribution network* against the reliability and quality of *supply standards* for the preceding year;

- (iv) qualitative assessment of how the *Distribution Network Service Provider* has complied with the applicable standards, its processes to ensure compliance, and a description of any areas of the standards that were not met in the preceding year and the corrective action taken; and
 - (v) a summary of the information in the most recent submission to the AER under the *service target performance incentive scheme*.
- (11) provide information on the *Distribution Network Service Provider's* *asset management* approach, including:
 - (i) a summary of any *asset management* strategy employed by the *Distribution Network Service Provider*;
 - (ii) a summary of any issues that may impact on the *system limitations* identified in the *Distribution Annual Planning Report* that has been identified through carrying out *asset management*; and
 - (iii) information about where further information on the *asset management* strategy and methodology adopted by the *Distribution Network Service Provider* may be obtained.
- (12) provide information on the *Distribution Network Service Provider's* *demand management* activities, including a qualitative summary of:
 - (i) *non-network* solutions that have been considered in the past year, including *embedded generation*;
 - (ii) actions taken to promote *non-network* initiatives in the preceding year, including *embedded generation*; and
 - (iii) the *Distribution Network Service Provider's* plans for demand management and *embedded generation* over the *forward planning period*.
- (13) provide information on the *Distribution Network Service Provider's* investments in metering or information technology systems which occurred in the preceding year, and planned investments in metering or information technology systems in the *forward planning period*; and
- (14) provide regional development plans consisting of a map of the *Distribution Network Service Provider's* network as a whole or maps by regions in accordance with the *Distribution Network Service Provider's* planning methodology or as required under any *regulatory obligation or requirement* identifying:
 - (i) *sub-transmission lines*, *zone substations* and *transmission-distribution connection points*;
 - (ii) summary of the forecast *capacity* and the relevant

reliability targets of each region:

- (iii) any system limitations that have been forecast, including, where they have been identified, overloaded primary distribution feeders; and
- (iv) provide any other information as required by the relevant jurisdiction that applies to the Distribution Network Service Provider.

6 Economic Regulation of Distribution Services

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6.5.6 Forecast operating expenditure

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- (e) In deciding whether or not the *AER* is satisfied as referred to in paragraph (c), the *AER* must have regard to the following (the *operating expenditure factors*):
 - (1) the information included in or accompanying the *building block proposal*;
 - (2) submissions received in the course of consulting on the *building block proposal*;
 - (3) analysis undertaken by or for the *AER* and *published* before the distribution determination is made in its final form;
 - (4) benchmark operating expenditure that would be incurred by an efficient *Distribution Network Service Provider* over the *regulatory control period*;
 - (5) the actual and expected operating expenditure of the *Distribution Network Service Provider* during any preceding *regulatory control periods*;
 - (6) the relative prices of operating and capital inputs;
 - (7) the substitution possibilities between operating and capital expenditure;
 - (8) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the applicable *service target performance incentive scheme* in respect of the *regulatory control period*;
 - (9) the extent the forecast of required operating expenditure of the *Distribution Network Service Provider* is referable to arrangements

with a person other than the provider that, in the opinion of the AER, do not reflect arm's length terms;

- (10) the extent the *Distribution Network Service Provider* has considered, and made provision for, efficient non-network alternatives; and

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(11) any relevant final project assessment report required under clauses 5.6.6AB(u) or (v) (as the case may be).

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6.5.7 Forecast capital expenditure

- (b) The forecast of required capital expenditure of a *Distribution Network Service Provider* that is included in a *building block proposal* must:

(4) identify any forecast capital expenditure that is for an option that has satisfied the ~~regulatory test~~ regulatory investment test for transmission or the regulatory investment test for distribution (as the case may be).

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- (e) In deciding whether or not the AER is satisfied as referred to in paragraph (c), the AER must have regard to the following (the *capital expenditure factors*):

(10) the extent the *Distribution Network Service Provider* has considered, and made provision for, efficient non-network alternatives; and

(11) any relevant final project assessment report required under clauses 5.6.6AB(u) or (v) (as the case may be).

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S6.2.2 Prudency and efficiency of capital expenditure

In determining the prudency or efficiency of capital expenditure under clause S6.2.1(d)(2), the AER must have regard to the following:

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

- (3) whether the relevant project in respect of which capital expenditure was made was evaluated against, and satisfied, the ~~regulatory test~~regulatory investment test for transmission or the regulatory investment test for distribution (as the case may be);

6A. Economic Regulation of Transmission Services

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6A.6.7 Forecast capital expenditure

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- (b) The forecast of required capital expenditure of a *Transmission Network Service Provider* that is included in a *Revenue Proposal* must:
- (1) comply with the requirements of the *submission guidelines*;
 - (2) be for expenditure that is properly allocated to *prescribed transmission services* in accordance with the principles and policies set out in the *Cost Allocation Methodology* for the *Transmission Network Service Provider*;
 - (3) include both:
 - (i) the total of the forecast capital expenditure for the relevant *regulatory control period*; and
 - (ii) the forecast of the capital expenditure for each *regulatory year* of the relevant *regulatory control period*; and
 - (4) identify any forecast capital expenditure:
 - (i) that is for a *reliability augmentation*; or
 - (ii) that is for an option that has satisfied the ~~regulatory test~~regulatory investment test for distribution or *regulatory investment test for transmission* (as the case may be).

Schedule 6A.2 Regulatory Asset Base

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

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- (e) **Former Market Network Services**

....

- (2) The value of the regulatory asset base for that *transmission system*, as at the beginning of the first *regulatory year* of the first *regulatory control period* for which those services are to be regulated under a *revenue determination*, is the amount that is determined by the *AER* as the lesser of:
- (i) the prudent and efficient value of the assets that are used by the relevant *Transmission Network Service Provider* to provide those prescribed services (but only to the extent they are used to provide such services), such value being determined by the *AER* having regard to the matters referred to in clause S6A.2.2; and
 - (ii) the sum of:
 - (A) the net present value of the revenue that it is expected would be earned by the provider from the provision of those services, over the remaining life of the assets that are used by the provider to provide those services, if those services had not been determined to be *prescribed transmission services*; and
 - (B) to the extent that such market benefit is not included in the expected revenue referred to in clause S6A.2.1(e)(2)(ii)(A), the net present value of the market benefit to *Registered Participants* of the services being determined to be *prescribed transmission services* compared to being continued to be treated as services that are not *prescribed transmission services*,

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

For the purposes of clause S6A.2.1(e)(2)(ii)(B), the net present value of the market benefit is the present value of the market benefit less the present value of costs, as those terms are defined for the purposes of the ~~regulatory test~~regulatory investment test for distribution or *regulatory investment test for transmission* (as the case may be).

...

S6A.2.2 Prudency and efficiency of capital expenditure

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

- (1) the need to provide a reasonable opportunity for the relevant *Transmission Network Service Provider* to recover the efficient costs of complying with all applicable *regulatory obligations or requirements* associated with the provision of *prescribed transmission services*;

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

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

S6A.2.3 Removal of assets from regulatory asset base

- (a) For the purposes of rolling forward the regulatory asset base for a *transmission system* as described in clause 6A.6.1 of the *Rules* and this schedule, the *AER* may only determine to remove, from the regulatory asset base for a *transmission system*, the value of an asset (or group of assets):
 - (1) to the extent that:
 - (i) the asset (or group of assets) is dedicated to one *Transmission Network User* (not being a *Distribution Network Service Provider*) or a small group of *Transmission Network Users*; and
 - (ii) the value of the asset (or group of assets), as included in the value of that regulatory asset base as at the beginning of the first *regulatory year* of the current *regulatory control period*, exceeds the *indexed amount*, as at the time of the *AER's* determination, of \$10 million;
 - (2) if the *AER* determines that the asset (or group of assets) is no longer contributing to the provision of *prescribed transmission services*; and
 - (3) if the *AER* determines that the relevant *Transmission Network Service Provider* has not adequately sought to manage the risk of that asset (or that group of assets) no longer contributing to the provision of *prescribed transmission services* by:

- (i) seeking to negotiate the payment of a lower price by the relevant *Transmission Network Users* for those *prescribed transmission services* in accordance with the *Rules*; or
- (ii) in the case of assets committed to be constructed on or after 16 February 2006, seeking to enter into arrangements which provide for a reasonable allocation of the risks of the value of that asset (or that group of assets) no longer contributing to the provision of *prescribed transmission services*.

For the purposes of clause S6A.2.3(a)(3)(ii), an asset is, and is only, to be taken to be committed to be constructed if it satisfies the criteria which a project needs to satisfy to be a "committed project" for the purposes of the ~~*regulatory investment test for distribution*~~ ~~*regulatory test*~~ or *regulatory investment test for transmission* (as the case may be).

.....

8. Administrative Functions

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8.2.1 Application and guiding principles

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- (h) Rule 8.2 does not apply to:

.....

- (13) a dispute of a kind referred to in clause 5.6.6A or 5.6.6AC;

10. Glossary (amended/inserted or deleted terms only)

asset management

In Chapter 5, the development and implementation of plans and processes, encompassing management, financial, consumer, engineering, information technology and other business inputs to ensure assets achieve the expected level of performance and minimise costs to consumers over the expected life cycle of the assets.

audit

For the purposes of paragraph 5.6.5CB(g) an audit is an examination of the specified matters conducted to the standard specified for an "audit" in Auditing Standard AUS106: "Explanatory Framework for standards on Audit and Audit Related Services" prepared by the Auditing Standards Board, as varied from time to time.

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considered project

- (a) In respect of a *transmission network augmentation*, a project that meets the following criteria:
- (1) the *Network Service Provider* has acquired the necessary land and easements;
 - (2) the *Network Service Provider* has obtained all necessary planning and development approvals;
 - (3) as applicable:
 - (i) the *augmentation* project has passed the *regulatory investment test for transmission*;
 - (ii) the *augmentation* has passed the *regulatory investment test for distribution*;
 - (iii) in respect of a transmission investment which has not been subject to a regulatory investment test for distribution **transmission** or a *regulatory investment test for distribution*, an intention to proceed with the project has been published in the Network Service Provider's Annual Planning Report or Distribution Annual Planning Report (as the case may be); or ~~in respect of a transmission investment which has not been subject to a regulatory investment test for transmission or the regulatory test, an intention to proceed with the project has been published in the Network Service Provider's Annual Planning Report; or~~
 - (4) construction has either commenced or the *Network Service Provider* has set a firm date for it to commence.
- (b) In respect of a *distribution network augmentation*, a project that meets the following criteria:
- (1) the *Network Service Provider* has acquired the necessary land and easements;
 - (2) the *Network Service Provider* has obtained all necessary planning and development approvals; and
 - (3) construction has either commenced or the *Network Service Provider* has set a firm date for it to commence.

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cost threshold

Has the meaning given in clause 5.6.5E(a) and 5.6.5E(a1).

cost threshold review

Has the meaning given in clause 5.6.5E(a) and 5.6.5E(a1).

Demand Side Engagement

Has the meaning given in clause 5.6.2AA(k).

Demand Side Engagement Register

Has the meaning given in clause 5.6.2AA(k).

Demand Side Engagement Strategy

Has the meaning given in clause 5.6.2AA(j).

design fault level

The maximum level of fault current that a *facility* can sustain while maintaining operation at an acceptable *performance standard*.

dispute notice

Has the meaning given in clause 5.6.6A(c)(1) and 5.6.6AC(c)(1).

disputing party

Has the meaning given in clause 5.6.6A(c) and 5.6.6AC(c)(1).

Distribution Annual Planning Report

Has the meaning given in clause 5.6.2AA(t).

distribution asset

The apparatus, equipment and *plant*, including *distribution lines*, *substations* and *sub-transmission lines*, of a *distribution system*.

distribution investment

Expenditure on assets and services which is undertaken by a *Distribution Network Service Provider* or any other person to address an *identified need* in respect of its *distribution network*.

draft project assessment report

The report prepared under clause 5.6.6AB(m).

final project assessment report

The report prepared under clauses 5.6.6AB(u) or (v).

firm delivery capacity

The maximum allowable output or *load* of a *network*, *facility* or *equipment* under *single contingency* conditions, including any short term overload capacity giving consideration to external factors, such as ambient temperature, that may affect the capacity of the *network* or *facility*.

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forward planning period

Has the meaning given in clause 5.6.2AA(e).

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identified need

The reason why the *Transmission Network Service Provider* or the *Distribution Network Service Provider* proposes that a particular investment be undertaken in respect of its *transmission network* or *distribution network*.

interested party

- (a) In Chapter 5, a person including an end user or its *representative* who, in *AEMO's* opinion, has or identifies itself to *AEMO* as having an interest in relation to the *network* planning and development activities covered under rule 5.6 or in the determination of *plant standards* covered under clause 5.3.3(b2).
- (b) Despite the definition in (a) above, in clauses 5.6.6, 5.6.6A, 5.6.6AB, and 5.6.6AC, 5.6.6 and 5.6.6A—a person including an end user or its *representative* who, in the *AER's* opinion, has or identifies itself to the *AER* as having the potential to suffer a material and adverse market impact from the proposed *transmission investment* or *distribution investment (as the case may be)* that is the *preferred option* identified in the *project assessment conclusions report* or the *final project assessment report (as the case may be)*.
- (c) In Chapter 6 or Chapter 6A, a person (not being a *Registered Participant* or *AEMO*) that has, in the *AER's* opinion, or identifies itself to the *AER* as having, an interest in the *Transmission Ring-Fencing Guidelines* or the *Distribution Ring-Fencing Guidelines*.
- (d) In Chapter 2, a person including an end user or its *representative* who, in *AEMO's* opinion, has or identifies itself to *AEMO* as having an interest in relation to the structure of *Participant Fees*.

joint network investment

An investment identified under clause 5.6.2AA(t) which affects both a *transmission network* and *distribution network* or an investment which would require action by the *Transmission Network Service Provider* and the *Distribution Network Service Provider*.

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Jurisdiction Specified Date

The date prescribed by regulation made under the application Act of a participating jurisdiction (a *local regulation*), on which the *Distribution Network Service Provider* must have published the *Distribution Annual Planning Report*.

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load transfer capacity

Meeting the *load* requirements for a *connection point* by the reduction of *load* or

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group of loads at the connection point and increasing the load or group of loads at a different connection point.

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new distribution network investment

~~Investment in a new large distribution network asset or a new small distribution network asset.~~

new large distribution network asset

~~An asset of a Distribution Network Service Provider which is an augmentation and in relation to which the Distribution Network Service Provider has estimated it will be required to invest a total capitalised expenditure in excess of \$10 million, unless the AER publishes a requirement that a new large distribution network asset is to be distinguished from a new small distribution network asset if it involves investment of a total capitalised expenditure in excess of another amount, or satisfaction of another criterion. Where such a specification has been made, an asset must require total capitalised expenditure in excess of that amount or satisfaction of those other criteria to be a new large distribution network asset.~~

new network investment

Means:

- ~~(a) new distribution network investment; or~~
- ~~(b) investment in a transmission network asset of a Transmission Network Service Provider which is:
 - ~~(1) an augmentation; and~~
 - ~~(2) designed to address limitations in respect of a distribution network notified under clause 5.6.2(e)(2); and~~
 - ~~(3) estimated by the Transmission Network Service Provider to have an estimated capital cost in excess of \$5 million (as varied in accordance with a cost threshold determination).~~~~

new small distribution network asset

~~An asset of a Distribution Network Service Provider which is an augmentation and:~~

- ~~(a) in relation to which the Distribution Network Service Provider has estimated it will be required to invest a total capitalised expenditure in excess of \$1 million, unless the AER publishes a requirement that an asset will be a new small distribution network asset if it involves investment of a total capitalised expenditure in excess of another amount, or satisfaction of another criterion. Where such specification has been made, an asset must require total capitalised expenditure in excess of that amount or satisfaction of those other criteria to be a new small distribution network asset; and~~

~~(b) is not a new large distribution network asset.~~

non-network provider

Parties who provide non-network solutions as a alternative to network augmentation, including *embedded generation* and *demand response*.

normal cyclic rating

The normal level of allowable *load* on a *primary distribution feeder* giving considerations to external factors, such as *ambient temperature* and *wind speed*, that may affect the capacity of the *primary distribution feeder*.

plant

In relation to a *connection point*, includes all equipment involved in generating, utilising or transmitting electrical *energy*.

In relation to *dispatch bids* and *offers*, controllable generating equipment and controllable *loads*.

In relation to the *statement of opportunities* prepared by *AEMO*, individually controllable generating facilities registered or capable of being registered with *AEMO*.

In relation to the *regulatory investment test for transmission*, any of the above definitions for *plant* relevant to the application of the *regulatory investment test for transmission* to a proposed *transmission investment*.

In relation to the *regulatory investment test for distribution*, any of the above definitions for *plant* relevant to the application of the *regulatory investment test for distribution* to a proposed *distribution investment*.

potential transmission project

Investment in a *transmission asset* of a *Transmission Network Service Provider* which:

- (1) is an *augmentation*; and
- (2) is designed to address limitations in respect of a *distribution network* notified under clause 5.6.2(e)(2);
- (3) is estimated by the *Transmission Network Service Provider* to have an estimated capital cost in excess of \$5 million (as varied in accordance with a *cost threshold determination*);
- (4) the *AEMC* identifies as likely, if constructed, to relieve forecast *constraints* in respect of *national transmission flow paths* between *regional reference nodes*.

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~~New network investment only in respect of a transmission network which the AEMC identifies as likely, if constructed, to relieve forecast constraints in respect of national transmission flow paths between regional reference nodes.~~

preferred option

Has the meaning given in clause 5.6.5B(b) and 5.6.5CA(b).

primary distribution feeder

A distribution line connecting a sub-transmission asset to either other distribution lines that are not sub-transmission lines, or to distribution assets that are not sub-transmission assets. For the avoidance of doubt, a zone substation may be considered as a sub-transmission asset.

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project specification report

The report prepared under clause 5.6.6AB(h).

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publish/publication

A document is published by the AER if it is:

- (a) published on the AER's website; and
- (b) made available for public inspection at the AER's public offices; and
- (c) in the case of a document inviting submissions from members of the public – published in a newspaper circulating generally throughout Australia.

In clause 5.6, a document is published by the Distribution Network Service Provider if it is:

- (a) published on the Distribution Network Service Provider's website; and
- (b) made available for public inspection at the Distribution Network Service Provider's public offices.

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Otherwise, a document is published by someone else if it is made available to Registered Participants electronically.

~~A document is published by someone else if it is made available to Registered Participants electronically.~~

regulatory test

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

regulatory investment test for distribution

The test developed and published by the AER in accordance with clause 5.6.5CA.

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as in force from time to time, and includes amendments made in accordance with clause 5.6.5CA.

regulatory investment test for distribution application guidelines

The guidelines developed and published by the AER in accordance with clause 5.6.5CA as in force from time to time, and include amendments made in accordance with clause 5.6.5CA.

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reliability corrective action

Investment by a Transmission Network Service Provider or a Distribution Network Service Provider in respect of its transmission network or distribution network for the purpose of meeting the service standards linked to the technical requirements of schedule 5.1 or in applicable regulatory instruments and which may consist of network or non-network options.

~~Investment by a Transmission Network Service Provider in respect of its transmission network for the purpose of meeting the service standards linked to the technical requirements of schedule 5.1 or in applicable regulatory instruments and which may consist of network or non-network options.~~

review

For the purposes of paragraph 5.6.5CB(f) a review is an examination of the specified matters conducted to a standard specified for a “review” in Auditing Standard AUS106: “Explanatory Framework for standards on Audit and Audit Related Services” prepared by the Auditing Standards Board, as varied from time to time.

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Specification Threshold Test

The test assessed under clause 5.6.6AB(d).

sub-transmission

Any part of the power system which operates to deliver electricity from the transmission network to the distribution network. For the avoidance of doubt, sub-transmission assets may form part of the distribution network.

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sub-transmission line

A power line connecting a sub-transmission asset to either the transmission system or another sub-transmission asset. For the avoidance of doubt, a zone substation may be considered as a sub-transmission asset.

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system limitation

Has the meaning given in clause 5.6.2AA(f)(2).

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total capacity

The theoretical maximum allowable output or load of a network or facility with all network components and equipment intact.

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transmission asset

The apparatus, equipment and plant, including transmission lines and substations, of a transmission system.

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transmission-distribution connection point

The agreed point of supply established between a Transmission Network Service Provider and a Distribution Network Service Provider.

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zone substation

A substation for the purpose of connecting a distribution network to a sub-transmission network.

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Chapter 11 Savings and transitional arrangements

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Part Z Regulatory Investment Test for Distribution

11.30 Rules consequent on making of the National Electricity Amendment (Regulatory Investment Test for Distribution) Rule 2009

11.30.1 Definitions

For the purposes of this rule 11.30:

Amending Rule means the National Electricity Amendment (Regulatory Investment Test for Distribution) Rule 2009.

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

current application means any action taken or process initiated under the Rules which relies on or is referenced to the regulatory test and is not completed as at [commencement date + one year].

initiated means in respect of a new distribution network investment (as defined under the Rules immediately prior to the commencement date), that consultation already commenced in respect of that investment in accordance with the old clause 5.6.2(f).

new clauses 5.6.5CA, 5.6.5D and 5.6.5E means clauses 5.6.5CA, 5.6.5D and 5.6.5E

of the *Rules* after the commencement date.

old clause 5.6.2 means clause 5.6.2 of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the Amending Rule) as in force immediately before the commencement date.

old clause 5.6.2(f) means clause 5.6.2(f) of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the Amending Rule) as in force immediately before the commencement date.

old clause 5.6.2(h) means clause 5.6.2(h) of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the Amending Rule) as in force immediately before the commencement date.

old clause 5.6.2(i) means clause 5.6.2(i) of the *Rules* (and all definitions in, and relevant provisions of, the *Rules* amended by the Amending Rule) as in force immediately before the commencement date.

11.30.2 Period when Amending Rule applies to distribution investment

(a) For the period from the commencement date to [**commencement date + one year**]:

(1) new clauses 5.6.5CA, 5.6.5D and 5.6.5E have no effect in respect of *distribution investment*; and

(2) old clause 5.6.2, and the *regulatory test* and *regulatory test application guidelines* promulgated from time to time under clause 5.6.5A, continue to apply in respect of *distribution investment*.

(b) From [**commencement date + one year**]:

(1) new clauses 5.6.5B-E will have effect in respect of *distribution investment*;

(2) old clause 5.6.2, and the *regulatory test* and *regulatory test application guidelines* promulgated from time to time under clause 5.6.5A, continue to apply in respect of any current application; and

(3) for the purposes of a report prepared under old clause 5.6.2(h) before [**commencement date + one year**], old clause 5.6.2(i) applies to any current application in relation to a new large distribution network asset (as defined under the *Rules* immediately prior to the commencement date).

[2] Chapter 11 Savings and transitional arrangements

In Appendix 1, clause 6.5.7(b)(4), . . . omit “*regulatory test*” and substitute “*regulatory investment test for transmission* or the *regulatory investment test for distribution* (as the case may be)”.

