



National Electricity Amendment (Economic Regulation of Transmission Services undertaken by Distributors) Rule 2008 No. 3

under the National Electricity Law as applied by:

- (a) the National Electricity (South Australia) Act 1996;
- (b) the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;
- (c) the National Electricity (New South Wales) Act 1997 of New South Wales;
- (d) the Electricity - National Scheme (Queensland) Act 1997 of Queensland;
- (e) the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;
- (f) the National Electricity (Victoria) Act 2005 of Victoria; and
- (g) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Electricity Law.

A handwritten signature in black ink, appearing to read "John Tamblyn", is written over the printed name.

John Tamblyn

Chairman

Australian Energy Market Commission

National Electricity Amendment (Economic Regulation of Transmission Services undertaken by Distributors) Rule 2008 No. 3

1. Title of Rule

This Rule is the *National Electricity Amendment (Economic Regulation of Transmission Services undertaken by Distributors) Rule 2008 No. 3*.

2. Commencement

This Rule commences operation on 1 July 2008.

3. Amendment of the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 1.

Schedule 1 Amendment of National Electricity Rules

(Clause 3)

[1] Clause 6.1.2 Structure of this Chapter

In clause 6.1.2(b)(13), omit the "." and substitute:

; and

- (14) Part N provides for services provided by, or in connection with, *dual function assets* to be the subject of distribution determinations.

[2] Clause 6.7.1 Principles relating to access to negotiated distribution services

Omit clause 6.7.1(8) and substitute:

(8) any access charges:

- (A) in respect of providing *distribution network user access to negotiated distribution services* which would have been *negotiated distribution services* regardless of the operation of clause 6.24.2(c) should be based on the costs reasonably incurred by the *Distribution Network Service Provider* in providing that access and, in the case of compensation referred to in clauses 5.5(f)(4)(ii) and (iii), on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs; and
- (B) in respect of providing *transmission network user access to negotiated distribution services* which would have been treated as *negotiated transmission services* were it not for the operation of clause 6.24.2(c) should be based on the costs reasonably incurred by the *Distribution Network Service Provider* in providing that access and, in the case of compensation referred to in clauses 5.4A(h) - (j), on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs;

[3] Clause 6.7.2 Determination of terms and conditions of access for negotiated distribution services

Omit clause 6.7.2(b) and substitute:

- (b) The *Distribution Network Service Provider* must also comply with any other applicable requirements of the *Rules*, including the requirements of:

- (1) rules 5.3 and 5.5, when negotiating for the provision of *connection services* and the associated *connection service* charges in respect of the provision of *negotiated distribution services* which would have been *negotiated distribution services* regardless of the operation of clause 6.24.2(c);
- (2) rules 5.3 and 5.4A, when negotiating for the provision of *connection services* and the associated *connection service* charges in respect of the provision of *negotiated distribution services* which would have been treated as *negotiated transmission services* were it not for the operation of clause 6.24.2(c);
- (3) rule 5.5, when negotiating the *use of system services charges* and *access charges* to be paid to or by a *Distribution Network User* in respect of the provision of *negotiated distribution services* which would have been *negotiated distribution services* regardless of the operation of clause 6.24.2(c); and
- (4) rule 5.4A, when negotiating the *use of system services charges* and *access charges* to be paid to or by a *Distribution Network User* in respect of the provision of *negotiated distribution services* which would have been treated as *negotiated transmission services* were it not for the operation of clause 6.24.2(c).

[4] Clause 6.7.5 Preparation of and requirements for negotiating framework for negotiated distribution services

Omit clause 6.7.5(d) and substitute:

- (d) Notwithstanding the foregoing, the negotiating framework must not be inconsistent with any of the requirements of:
 - (1) rules 5.3 and 5.5 insofar as the *negotiating framework* applies to *negotiated distribution services* which would have been *negotiated distribution services* regardless of the operation of clause 6.24.2(c); and
 - (2) rules 5.3 and 5.4A insofar as the *negotiating framework* applies to *negotiated distribution services* which would have been treated as *negotiated transmission services* were it not for the operation of clause 6.24.2(c),

and any other relevant provisions of this Chapter 6 and, in the event of any inconsistency, those requirements prevail.

[5] Clause 6.8.1 AER's framework and approach paper

After clause 6.8.1(c), insert:

- (ca) The *framework and approach paper* must include the *AER's* determination under clause 6.25(b) as to whether or not Part J of Chapter 6A is to be applied to

determine the pricing of *transmission standard control services* provided by any *dual function assets* owned, controlled or operated by the *Distribution Network Service Provider*.

[6] Clause 6.12.1 Constituent decisions

After clause 6.12.1(17), insert:

- (17A) a decision on the approval of the proposed *pricing methodology* for *transmission standard control services* (if rule 6.26 applies);

[7] Clause 6.22.2 Determination of dispute

Omit clause 6.22.2(a)(1) and substitute:

- (1) in relation to price, the *Distribution Network Service Provider's approved pricing proposal* or, in respect of the *Distribution Network Service Provider's transmission standard control services* in respect of which the *AER* has made a determination under clause 6.25(b) that pricing in respect of those services should be regulated under Part J of Chapter 6A through the application of rule 6.26, the *Distribution Network Service Provider's approved pricing methodology*;

[8] Chapter 6 Part N

Insert a new Part N into Chapter 6 as follows:

Part N Dual Function Assets

6.24 Dual Function Assets

6.24.1 Application of this Part

This Part applies to *Distribution Network Service Providers* which own, control or operate both a *distribution system* and a *dual function asset*.

6.24.2 Dual Function Assets

Subject to rule 6.26, for the purposes of Chapters 6 and 6A:

- (a) any part of a *network* owned, operated or controlled by a *Distribution Network Service Provider* which operates between 66 kV and 220 kV and which operates in parallel, and provides support, to the higher voltage *transmission network* is deemed to be a *dual function asset*;

- (b) any service that is provided by a *Distribution Network Service Provider* by means of, or in connection with, the *Distribution Network Service Provider's dual function assets* that, but for this Part, would be a *prescribed transmission service* for the purposes of Chapter 6A is deemed to be a *standard control service*;
- (c) any service that is provided by a *Distribution Network Service Provider* by means of, or in connection with, the *Distribution Network Service Provider's dual function assets* that, but for this Part, would be a *negotiated transmission service* under Chapter 6A is deemed to be a *negotiated distribution service*; and
- (d) references to *prescribed transmission services* do not include a service provided by means of, or in connection with, a *dual function asset*.

6.25 AER determination of applicable pricing regime for Dual Function Assets

- (a) A *Distribution Network Service Provider* which owns, controls or operates *dual function assets* must advise the *AER* at least 24 months prior to the end of the current *regulatory control period* of the value of that *Distribution Network Service Provider's dual function assets* which provide *standard control services* that would be *prescribed transmission services* were it not for the operation of clause 6.24.2 (referred to as *transmission standard control services*). The value to be advised is the value ascribed to the relevant *dual function assets* in the relevant *Distribution Network Service Provider's* regulatory asset base as at the start of the *regulatory year* which commences 24 months prior to the end of the current *regulatory control period*.
- (b) The *AER* must review the information provided under paragraph (a) and determine, following consultation with the relevant *Distribution Network Service Provider* and with other interested parties in the course of preparing the *framework and approach paper* for that *Distribution Network Service Provider*, whether the value of that *Distribution Network Service Provider's dual function assets* which provide *transmission standard control services* comprise such a material proportion of that *Distribution Network Service Provider's* regulatory asset base that pricing in respect of those services should be regulated under Part J of Chapter 6A through the application of rule 6.26.
- (c) In making its determination under paragraph (b) the *AER* must consider:
 - (1) whether regulating the pricing of the *transmission standard control services* provided by a *Distribution Network Service Provider's dual function assets*:
 - (i) under Part I of Chapter 6 as though they were *prescribed distribution services*; rather than
 - (ii) under Part J of Chapter 6A as though they were *prescribed transmission services*,

- will result in materially different prices for *Distribution Customers* (including those connected directly to the relevant *dual function assets* and those connected to other *distribution networks*);
- (2) whether the materiality of the different prices is likely to impact on future consumption, production and investment decisions by actual or potential *Network Users*; and
 - (3) any other matter that the *AER* considers relevant.
- (d) The *AER*'s determination under paragraph (b) must be notified to the relevant *Distribution Network Service Provider* in the *framework and approach paper* applicable to that *Distribution Network Service Provider*.

6.26 Division of Distribution Network Service Provider's revenue

- (a) This rule 6.26 applies if the *AER* has determined under rule 6.25(b) that pricing in respect of *transmission standard control services* provided by a *Distribution Network Service Provider's dual function assets* should be regulated under Part J of Chapter 6A.
- (b) The *AER* must, for the purposes of the distribution determination for the relevant *Distribution Network Service Provider*, divide the revenue calculated under Part C of Chapter 6 into the following two portions:
 - (1) a portion relevant to the *Distribution Network Service Provider's transmission standard control services* provided by its *dual function assets*. This portion is defined as its *transmission standard control service revenue*; and
 - (2) a portion relevant to the other *standard control services* provided by the *Distribution Network Service Provider*. This portion is defined as its *distribution standard control service revenue*,
based on the *Distribution Network Service Provider's* approved *Cost Allocation Method*.
- (c) The relevant *Distribution Network Service Provider* must submit a proposed *pricing methodology* to the *AER* in respect of its *transmission standard control service revenue* as if it were a *Transmission Network Service Provider* as part of its regulatory proposal under Chapter 6, and Part E of Chapter 6A applies in respect of that *pricing methodology* (with the necessary changes).
- (d) The *AER* and the relevant *Distribution Network Service Provider* must apply and comply with all aspects of Part J of Chapter 6A instead of, and to the exclusion of, Parts I, J and K of Chapter 6 in respect of the *dual function assets* which provide *transmission standard control services*, subject to the following:
 - (1) for the purposes of Part J of Chapter 6A:

- (i) the *dual function assets* are relevantly deemed to be *transmission network* assets which provide *prescribed transmission services*;
 - (ii) the *Distribution Network Service Provider* which owns, controls or operates the relevant *dual function assets* is relevantly deemed to be a *Transmission Network Service Provider*;
- (2) the *maximum allowed revenue* referred to in clause 6A.22.1 is taken to be the *transmission standard control service revenue*;
 - (3) the reference in clause 6A.22.1(1) to clause 6A.3.2 is taken to be a reference to rules 6.6 and 6.13;
 - (4) references to "*transmission determination*" are to be read as references to the relevant "*distribution determination*", with the *AER* being required to include in the *distribution* determination a decision to approve a proposed *pricing methodology* in relation to the *transmission standard control services* provided by the relevant *dual function assets*; and
 - (5) if there is no previous method to establish prices under clause 6A.24.3(b)(3), the relevant *Distribution Network Service Provider* must apply the *pricing methodology* of the largest *Transmission Network Service Provider* operating in the *participating jurisdiction* in which that *Distribution Network Service Provider* operates the relevant *dual function assets*.
- (e) The pricing rules in Part I of Chapter 6 are to be applied to the *Distribution Network Service Provider's distribution standard control service revenue*.

[9] Chapter 6A New Clause 6A1.1(k)

In clause 6A.1.1, insert a new clause 6A.1.1(k) as follows:

- (k) Services provided by *dual function assets* are not subject to regulation under this Chapter 6A except to the extent provided in Part N of Chapter 6.

[10] Chapter 10 Amended definitions

Omit the definition of "**access charge**" and substitute:

access charge

For a *Transmission Network Service Provider* - an amount described in clause 5.4A(g)-(j).

For a *Distribution Network Service Provider* - in respect of access to:

- (a) *negotiated distribution services* which would have been *negotiated distribution services* regardless of the operation of clause 6.24.2(c), an amount described in rule 5.5(f)(4); and
- (b) *negotiated distribution services* which would have been treated as *negotiated transmission services* were it not for the operation of clause 6.24.2(c), an amount described in clause 5.4A(g)-(j).

[11] Chapter 10 New definitions

Insert the following new definitions in alphabetical order:

distribution standard control service revenue

Has the meaning given in rule 6.26(b)(2).

dual function asset

Means any part of a *network* owned, operated or controlled by a *Distribution Network Service Provider* which operates between 66 kV and 220 kV and which operates in parallel, and provides support, to the higher voltage *transmission network* which is deemed by clause 6.24.2(a) to be a *dual function asset*. For the avoidance of doubt:

- (a) a *dual function asset* can only be an asset which forms part of a *network* that is predominantly a *distribution network*; and
- (b) an asset which forms part of a *network* which is predominantly a *transmission network* cannot be characterised as a *dual function asset*,

through the operation of clause 6.24.2(a).

transmission standard control service

Has the meaning given in rule 6.25(a).

transmission standard control service revenue

Has the meaning given in rule 6.26(b)(1).

END OF RULE AS MADE