



## **National Electricity Amendment (Material change in network infrastructure project costs) Rule 2022 No. 10**

under the National Electricity Law to the extent applied by:

- (a) the National Electricity (South Australia) Act 1996 of South Australia;
- (b) the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;
- (c) the Electricity - National Scheme (Queensland) Act 1997 of Queensland;
- (d) the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;
- (e) the National Electricity (New South Wales) Act 1997 of New South Wales;
- (f) the National Electricity (Victoria) Act 2005 of Victoria;
- (g) the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 of the Northern Territory; and
- (h) the Australian Energy Market Act 2004 of the Commonwealth.

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

Anna Collyer  
Chairperson  
Australian Energy Market Commission

## **National Electricity Amendment (Material change in network infrastructure project costs) Rule 2022 No. 10**

### **1 Title of Rule**

This Rule is the *National Electricity Amendment (Material change in network infrastructure project costs) Rule 2022 No. 10*.

### **2 Commencement**

Schedule 1 of the Rule commences operation on 9 October 2023.

Schedule 2 of this Rule commences operation on 27 October 2022.

### **3 Amendment to the National Electricity Rules**

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

### **4 Savings and Transitional Amendment to the National Electricity Rules**

The National Electricity Rules are amended as set out in Schedule 2.

## **Schedule 1      Amendment to the National Electricity Rules**

(Clause 3)

### **[1] Clause 5.15.3      Review of costs thresholds**

In clause 5.15.3(b)(5), at the end of the subparagraph, omit "and".

### **[2] Clause 5.15.3      Review of costs thresholds**

In clause 5.15.3(b)(6), omit "." and substitute "; and".

### **[3] Clause 5.15.3      Review of costs thresholds**

After clause 5.15.3(b)(6), insert:

- (7) greater than \$100 million referred to in clause 5.16.4(k)(10) and clause 5.16A.4(d)(9).

### **[4] Clause 5.15.3      Review of costs thresholds**

In clause 5.15.3(d)(5), omit "." and substitute "; and".

### **[5] Clause 5.15.3      Review of costs thresholds**

After clause 5.15.3(d)(5), insert:

- (6) greater than \$100 million referred to in clause 5.17.4(j)(13).

### **[6] Clause 5.16.2      Regulatory investment test for transmission application guidelines**

In clause 5.16.2(c)(2), after "*credible option*" insert ", including any acceptable cost estimate classification systems".

### **[7] Clause 5.16.2      Regulatory investment test for transmission application guidelines**

In clause 5.16.2(c)(8), after "risks" insert ", including any appropriate role for contingency allowances".

### **[8] Clause 5.16.2      Regulatory investment test for transmission application guidelines**

In clause 5.16.2(c)(8), at the end of the subparagraph, omit "and".

### **[9] Clause 5.16.2      Regulatory investment test for transmission application guidelines**

In clause 5.16.2(c)(9), omit "." and substitute "; and".

**[10] Clause 5.16.2 Regulatory investment test for transmission application guidelines**

After clause 5.16.2(c)(9), insert:

- (10) the purpose of, and appropriate approach to developing, *RIT reopening triggers*, as well as examples of potential:
  - (i) *RIT reopening triggers*; and
  - (ii) actions that may be taken in response to a *RIT reopening trigger* being triggered.

**[11] Clause 5.16.2 Regulatory investment test for transmission application guidelines**

Omit clause 5.16.2(f) and substitute:

- (f) An amendment referred to in paragraph (e) that relates to:
  - (1) applying the *regulatory investment test for transmission* to *RIT-T projects*, 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 *RIT-T proponent*; and
  - (2) a *RIT-T proponent* ascertaining whether a material change in circumstances has occurred that would require it to reapply the *regulatory investment test for transmission* pursuant to clause 5.16.4(z3)(3), does not apply to a *RIT-T project* for which a *project assessment draft report* has been prepared prior to the date that the amendment is effective.

**[12] Clause 5.16.2 Regulatory investment test for transmission application guidelines**

After clause 5.16.2(g), insert:

- (h) The *AER* may specify the relevant parts of the *regulatory investment test for transmission application guidelines* that are binding on *RIT-T proponents*.

**[13] Clause 5.16.4 Regulatory investment test for transmission procedures**

In clause 5.16.4(k)(9)(iv), omit "." and substitute "; and".

**[14] Clause 5.16.4 Regulatory investment test for transmission procedures**

After clause 5.16.4(k)(9)(iv), insert:

- (10) if each of the following apply to the *RIT-T project*:
- (i) the estimated capital cost of the proposed *preferred option* is greater than \$100 million (as varied in accordance with a *cost threshold determination*); and
  - (ii) *AEMO* is not the sole *RIT-T proponent*,  
the *RIT reopening triggers* applying to the *RIT-T project*.

**[15] Clause 5.16.4 Regulatory investment test for transmission procedures**

Omit clause 5.16.4(z3) and substitute:

- (z3) If:
- (1) a *RIT-T proponent* has published a *project assessment conclusions report* in respect of a *RIT-T project*;
  - (2) a *Network Service Provider* still wishes to undertake the *RIT-T project* to address the *identified need*; and
  - (3) there has been any material change in circumstances,
- then the *RIT-T proponent* must:
- (4) notify the *AER* in writing of the material change in circumstances, which must also set out the nature of that material change in circumstances, any actions the *RIT-T proponent* proposes to take as a result of that material change in circumstances and the timeframes within which it proposes to complete any such actions;
  - (5) provide any information necessary to support any actions the *RIT-T proponent* proposes to take, including any information necessary to demonstrate that the *RIT-T proponent* has had regard to the matters in paragraph (z4A); and
  - (6) take the actions (if any) approved or required by the *AER* in a determination made under paragraph (z5A) within the timeframe specified by the *AER* in its determination.

**[16] Clause 5.16.4 Regulatory investment test for transmission procedures**

After clause 5.16.4(z3)(6), insert:

- (z3A) For the purposes of paragraph (z3), a *RIT-T proponent* is only required to consider whether a material change in circumstances has occurred if more than six months has elapsed since the later of the *RIT-T proponent* completing:

- (1) the analysis required to apply the *regulatory investment test for transmission*; or
- (2) the analysis required for any reapplication (in whole or in part) of the *regulatory investment test for transmission*.

**[17] Clause 5.16.4 Regulatory investment test for transmission procedures**

Omit clause 5.16.4(z4) and substitute:

- (z4) For the purposes of paragraph (z3), a material change in circumstances includes, but is not limited to:
  - (1) a change to the key assumptions used in identifying the *identified need* described in the *project assessment conclusions report*;
  - (2) for a *RIT-T project* contemplated by clause 5.16.4(k)(10), one or more *RIT reopening triggers* applying to the project having been triggered; or
  - (3) a change in circumstances which, in the reasonable opinion of the *RIT-T proponent*, means that the *preferred option* identified in the *project assessment conclusions report* may no longer be the *preferred option*.

**[18] Clause 5.16.4 Regulatory investment test for transmission procedures**

After clause 5.16.4(z4), insert:

- (z4A) When proposing any actions to take and/or associated timeframes under subparagraph (z3)(4), the *RIT-T proponent* must have regard to:
  - (1) whether, in the *RIT-T proponent's* reasonable opinion, the reapplication of the *regulatory investment test for transmission* to the *RIT-T project* is justified in the circumstances;
  - (2) the costs and delay that may result from the actions the *RIT-T proponent* proposes to take as a result of the material change in circumstances; and
  - (3) the costs and delay that may result from the reapplication (in whole or in part) of the *regulatory investment test for transmission* to the *RIT-T project*.
- (z4B) The actions the *RIT-T proponent* proposes to take under subparagraph (z3)(4) must at a minimum include:

- (1) *publishing* a statement that the *preferred option* identified remains the *preferred option*, as well as any supporting information necessary to demonstrate that the *preferred option* identified remains the *preferred option*; or
- (2) *publishing* a statement that the *preferred option* is no longer the *preferred option* and identifying the new *preferred option*, as well as any supporting information necessary to demonstrate that the *preferred option* is no longer the *preferred option* and the reasons the new *preferred option* is the *preferred option*.

#### **[19] Clause 5.16.4 Regulatory investment test for transmission procedures**

Omit clause 5.16.4(z5) and substitute:

- (z5) When making a determination under paragraph (z5A), the *AER*:
  - (1) must have regard to:
    - (i) the credible options (other than the *preferred option*) identified in the *project assessment conclusions report*;
    - (ii) the material change in circumstances identified by the *RIT-T proponent*;
    - (iii) whether a failure to promptly undertake the *RIT-T project* is likely to materially affect the *reliability* and *secure operating state* of the *transmission network* or a significant part of that *network*; and
    - (iv) whether the *RIT-T proponent* has had regard to the matters required under paragraph (z4A); and
  - (2) may request additional information or analysis from the *RIT-T proponent* that the *AER* considers reasonably necessary to assist it in making a determination under paragraph (z5A).

#### **[20] Clause 5.16.4 Regulatory investment test for transmission procedures**

After clause 5.16.4(z5), insert:

- (z5A) Subject to paragraph (z5C), within 40 days of receipt by the *AER* of a notice referred to in subparagraph (z3)(4), the *AER* must:
  - (1) *publish* the notice referred to in subparagraph (z3)(4);
  - (2) make a determination whether to approve or reject any actions (and/or associated timeframes) notified by the *RIT-T proponent* under subparagraph (z3)(4) and, where the *AER* approves any

- such actions, specify a reasonable timeframe within which such actions must be completed;
- (3) notify the *RIT-T proponent* of the determination;
  - (4) where the *AER* rejects the actions (and/or associated timeframes) notified by the *RIT-T proponent* under subparagraph (z3)(4), specify the actions (if any) the *AER* requires the *RIT-T proponent* to take, which may include the *RIT-T proponent* reapplying (in whole or in part) the *regulatory investment test for transmission* to the *RIT-T project*, as well as a reasonable timeframe within which any such actions must be completed; and
  - (5) *publish* the determination made under subparagraph (z5A)(2) or subparagraph (z5A)(4) (as applicable).
- (z5B) If the *AER* does not make the determination within the time required by paragraph (z5A), then the *AER* is taken to have approved the actions notified by the *RIT-T proponent* under subparagraph (z3)(4).
- (z5C) Where the *AER* requests additional information or analysis under subparagraph (z5)(2), the period of time for making a determination under paragraph (z5A) is automatically extended by the time it takes the *RIT-T proponent* to provide the additional information or analysis to the *AER* provided that the *AER* makes the request for additional information at least seven days prior to the expiry of the period of time for making a determination under paragraph (z5A).
- (z5D) At the same time that a *RIT-T proponent* submits an application under clause 6A.8.2(a), the *RIT-T proponent* must provide the *AER* with a statement containing confirmation:
- (1) on whether or not there has been a material change in circumstances contemplated under subparagraph (z3)(3) and any supporting analysis;
  - (2) that the *RIT-T proponent* has complied with its obligations under paragraphs (z3), (z4A) and (z4B);
  - (3) of the actions (if any) the *RIT-T proponent* was required to take pursuant to a determination by the *AER* under paragraph (z5A) and timeframe within which such actions were to be completed; and
  - (4) of the actions (if any) the *RIT-T proponent* took as a result of the material change in circumstances and the date on which any such actions were completed.



- (z5E) At the same time, or as soon as reasonably practicable after, the *RIT-T proponent's* submission under paragraph (z5D), the *RIT-T proponent* must *publish* the statement referred to in paragraph (z5D).

**[21] Clause 5.16A.2 Cost Benefit Analysis Guidelines**

In clause 5.16A.2(c)(2) after "*credible option*", insert ", including any acceptable cost estimate classification systems".

**[22] Clause 5.16A.2 Cost Benefit Analysis Guidelines**

In clause 5.16A.2(c)(2), omit "and".

**[23] Clause 5.16A.2 Cost Benefit Analysis Guidelines**

In clause 5.16A.2(c)(3), omit "." and substitute "; and".

**[24] Clause 5.16A.2 Cost Benefit Analysis Guidelines**

After clause 5.16A.2(c)(3), insert:

- (4) the purpose of, and appropriate approach to developing, *RIT reopening triggers*, as well as examples of potential:
  - (i) *RIT reopening triggers*; and
  - (ii) actions that may be taken in response to a *RIT reopening trigger* being triggered.

**[25] Clause 5.16A.4 Regulatory investment test for transmission procedures**

In clause 5.16A.4(d)(7), omit "and".

**[26] Clause 5.16A.4 Regulatory investment test for transmission procedures**

In clause 5.16A.4(d)(8)(ii), omit "." and substitute "; and".

**[27] Clause 5.16A.4 Regulatory investment test for transmission procedures**

After clause 5.16A.4(d)(8)(ii), insert:

- (9) if each of the following apply to the *RIT-T project*:
  - (i) the estimated capital cost of the proposed *preferred option* is greater than \$100 million (as varied in accordance with a *cost threshold determination*); and
  - (ii) *AEMO* is not the sole *RIT-T proponent*,

include the *RIT reopening triggers* applying to the *RIT-T project*.

#### **[28] Clause 5.16A.4 Regulatory investment test for transmission procedures**

Omit clause 5.16A.4(n) and substitute:

- (n) If:
- (1) a *RIT-T proponent* has *published* on its website a *project assessment conclusions report* in respect of a *RIT-T project*; and
  - (2) there has been either:
    - (i) any material change in circumstances; or
    - (ii) *AEMO* has published an *Integrated System Plan* or *ISP update* that shows a change to the *identified need* in relation to the *actionable ISP project* the subject of the *project assessment conclusions report*,

then the *RIT-T proponent* must:

- (3) notify the *AER* in writing that there has been either a material change in circumstances or a change to the *identified need* (as applicable and each as contemplated in subparagraph (2)), which must also set out the nature of that material change in circumstances or change to the *identified need*, any actions the *RIT-T proponent* proposes to take as a result of that material change in circumstances or change to the *identified need* and the timeframes within which it proposes to complete any such actions;
- (4) provide any information necessary to support any actions the *RIT-T proponent* proposes to take, including any information necessary to demonstrate that the *RIT-T proponent* has had regard to the matters in paragraph (o1); and
- (5) take the actions (if any) approved or required by the *AER* in a determination made under paragraph (q) within the timeframe specified by the *AER* in its determination.

#### **[29] Clause 5.16A.4 Regulatory investment test for transmission procedures**

After clause 5.16A.4(n)(5), insert:

- (o0) For the purposes of paragraph (n)(2), a *RIT-T proponent* is only required to consider whether a material change in circumstances or change to the *identified need* has occurred if more than six months has elapsed since the later of the *RIT-T proponent* completing:

- (1) the analysis required to apply the *regulatory investment test for transmission*; or
- (2) the analysis required for any reapplication (in whole or in part) of the *regulatory investment test for transmission*.

**[30] Clause 5.16A.4 Regulatory investment test for transmission procedures**

Omit clause 5.16A.4(o) and substitute:

- (o) For the purposes of paragraph (n), a material change in circumstances includes, but is not limited to:
  - (1) a change to the key inputs and assumptions (including as a result of an *ISP update*) used in identifying the *identified need* described in the *project assessment conclusions report*;
  - (2) for a *RIT-T project* contemplated by clause 5.16A.4(d)(9), one or more *RIT reopening triggers* applying to the project having been triggered; or
  - (3) a change in circumstances which, in the reasonable opinion of the *RIT-T proponent*, means that the *preferred option* identified in the *project assessment conclusions report* may no longer be the *preferred option*.

**[31] Clause 5.16A.4 Regulatory investment test for transmission procedures**

After clause 5.16A.4(o), insert:

- (o1) When proposing any actions to take and/or associated timeframes under subparagraph (n)(3), the *RIT-T proponent* must have regard to:
  - (1) whether, in the *RIT-T proponent's* reasonable opinion, the reapplication of the *regulatory investment test for transmission* to the *RIT-T project* is justified in the circumstances;
  - (2) the costs and delay that may result from the actions the *RIT-T proponent* proposes to take as a result of the material change in circumstances or change to the *identified need* (as applicable and each as contemplated in subparagraph (n)(2)); and
  - (3) the costs and delay that may result from the reapplication (in whole or in part) of the *regulatory investment test for transmission* to the *RIT-T project*.
- (o2) The actions the *RIT-T proponent* proposes to take under subparagraph (n)(3) must at a minimum include:

- (1) *publishing* a statement that the *preferred option* identified remains the *preferred option*, as well as any supporting information necessary to demonstrate that the *preferred option* identified remains the *preferred option*; or
- (2) *publishing* a statement that the *preferred option* is no longer the *preferred option* and identifying the new *preferred option*, as well as any supporting information necessary to demonstrate that the *preferred option* is no longer the *preferred option* and the reasons the new *preferred option* is the *preferred option*.

#### **[32] Clause 5.16A.4 Regulatory investment test for transmission procedures**

Omit clause 5.16A.4(p) and substitute:

- (p) When making a determination under paragraph (q), the *AER*:
  - (1) must have regard to:
    - (i) the *credible options* (other than the *preferred option*) identified in the *project assessment conclusions report*;
    - (ii) the material change in circumstances identified by the *RIT-T proponent* or *AEMO*;
    - (iii) whether a failure to promptly undertake the *RIT-T project* is likely to materially affect the *reliability* and *secure operating state* of the *transmission network* or a significant part of that *network*; and
    - (iv) whether the *RIT-T proponent* has had regard to the matters required under paragraph (o1); and
  - (2) may request additional information or analysis from the *RIT-T proponent* that the *AER* considers reasonably necessary to assist it in making a determination under paragraph (q).

#### **[33] Clause 5.16A.4 Regulatory investment test for transmission procedures**

After clause 5.16A.4(p), insert:

- (q) Subject to paragraph (s), within 40 days of receipt by the *AER* of a notice referred to in subparagraph (n)(3), the *AER* must:
  - (1) *publish* the notice referred to in subparagraph (n)(3);
  - (2) make a determination whether to approve or reject any actions (and/or associated timeframes) notified by the *RIT-T proponent* under subparagraph (n)(3) and, where the *AER* approves any

- such actions, specify a reasonable timeframe within which such actions must be completed;
- (3) notify the *RIT-T proponent* of the determination;
  - (4) where the *AER* rejects the actions (and/or associated timeframes) notified by the *RIT-T proponent* under subparagraph (n)(3), specify the actions (if any) the *AER* requires the *RIT-T proponent* to take, which may include the *RIT-T proponent* reapplying (in whole or in part) the *regulatory investment test for transmission* to the *RIT-T project*, as well as a reasonable timeframe within which any such actions must be completed; and
  - (5) *publish* the determination made under subparagraph (q)(2) or subparagraph (q)(4) (as applicable).
- (r) If the *AER* does not make the determination within the time required by paragraph (q), then the *AER* is taken to have approved the actions notified by the *RIT-T proponent* under subparagraph (n)(3).
- (s) Where the *AER* requests additional information or analysis under subparagraph (p)(2), the period of time for making a determination under paragraph (q) is automatically extended by the time it takes the *RIT-T proponent* to provide the additional information or analysis to the *AER* provided that the *AER* makes the request for additional information at least seven days prior to the expiry of the period of time for making a determination under paragraph (q).
- (t) At the same time that a *RIT-T proponent* submits an application under clause 6A.8.2(a), the *RIT-T proponent* must provide the *AER* with a statement containing confirmation:
- (1) on whether or not there has been a material change in circumstances contemplated under subparagraph (n)(2)(i) and any supporting analysis;
  - (2) that the *RIT-T proponent* has complied with its obligations under paragraphs (n), (o1) and (o2);
  - (3) of the actions (if any) the *RIT-T proponent* was required to take pursuant to a determination by the *AER* under paragraph (q) and timeframe within which any such actions were to be completed; and
  - (4) of the actions (if any) the *RIT-T proponent* took as a result of the material change in circumstances and the date on which any such actions were completed.
- (u) At the same time, or as soon as reasonably practicable after, the *RIT-T proponent's* submission under paragraph (t), the *RIT-T proponent* must *publish* the statement referred to in paragraph (t).

**[34] Clause 5.17.2 Regulatory investment test for distribution application guidelines**

In clause 5.17.2(c)(6), after "clause 5.17.1(c)(6)", insert ", including any acceptable cost estimate classification systems".

**[35] Clause 5.17.2 Regulatory investment test for distribution application guidelines**

In clause 5.17(c)(8), after "risks", insert ", including any appropriate role for contingency allowances".

**[36] Clause 5.17.2 Regulatory investment test for distribution application guidelines**

In clause 5.17.2(c)(8) after ";", omit "and".

**[37] Clause 5.17.2 Regulatory investment test for distribution application guidelines**

In clause 5.17.2(c)(9), omit "." and substitute "; and".

**[38] Clause 5.17.2 Regulatory investment test for distribution application guidelines**

After clause 5.17.2(c)(9), insert:

- (10) the purpose of, and appropriate approach to developing, *RIT reopening triggers*, as well as examples of potential:
  - (i) *RIT reopening triggers*; and
  - (ii) actions that may be taken in response to a *RIT reopening trigger* being triggered.

**[39] Clause 5.17.2 Regulatory investment test for distribution application guidelines**

Omit clause 5.17.2(f) and substitute:

- (f) An amendment referred to in paragraph (e) that relates to:
  - (1) applying the *regulatory investment test for distribution* to *RIT-D projects*, 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 *RIT-D proponent*; and
  - (2) a *RIT-D proponent* ascertaining whether a material change in circumstances has occurred that would require it to reapply the *regulatory investment test for distribution* pursuant to clause

5.17.4(t)(3), does not apply to a *RIT-D project* for which a *draft project assessment report* has been prepared prior to the date that the amendment is effective.

**[40] Clause 5.17.2 Regulatory investment test for distribution application guidelines**

After clause 5.17.2(h), insert:

- (i) The *AER* may specify the relevant parts of the *regulatory investment test for distribution application guidelines* that are binding on *RIT-D proponents*.

**[41] Clause 5.17.4 Regulatory investment test for distribution procedures**

In clause 5.17.4(j)(11)(v), omit "; and" and substitute ";".

**[42] Clause 5.17.4 Regulatory investment test for distribution procedures**

In clause 5.17.4(j)(12), omit "." and substitute "; and".

**[43] Clause 5.17.4 Regulatory investment test for distribution procedures**

After clause 5.17.4(j)(12), insert:

- (13) if the estimated capital cost of the proposed *preferred option* is greater than \$100 million (as varied in accordance with a *cost threshold determination*), include the *RIT reopening triggers* applying to the *RIT-D project*.

**[44] Clause 5.17.4 Regulatory investment test for distribution procedures**

Omit clause 5.17.4(t) and substitute:

- (t) If:
  - (1) a *RIT-D proponent* has published a *final project assessment report* in respect of a *RIT-D project*;
  - (2) a *Network Service Provider* still wishes to undertake the *RIT-D project* to address the *identified need*; and
  - (3) there has been a material change in circumstances,then the *RIT-D proponent* must:
  - (4) notify the *AER* in writing of the material change in circumstances, which must also set out the nature of that



material change in circumstances, any actions the *RIT-D proponent* proposes to take as a result of that material change in circumstances and the timeframes within which it proposes to complete any such actions;

- (5) provide any information necessary to support any actions the *RIT-D proponent* proposes to take, including any information necessary to demonstrate that the *RIT-D proponent* has had regard to the matters in paragraph (u1); and
- (6) take the actions (if any) approved or required by the *AER* in a determination made under paragraph (w) within the timeframe specified by the *AER* in its determination.

#### **[45] Clause 5.17.4 Regulatory investment test for distribution procedures**

After clause 5.17.4(t)(6), insert:

- (t1) For the purposes of subparagraph (t)(3), a *RIT-D proponent* is only required to consider whether a material change in circumstances has occurred if more than six months has elapsed since the later of the *RIT-D proponent* completing:
  - (1) the analysis required to apply the *regulatory investment test for distribution*; or
  - (2) the analysis required for any reapplication (in whole or in part) of the *regulatory investment test for distribution*.

#### **[46] Clause 5.17.4 Regulatory investment test for distribution procedures**

Omit clause 5.17.4(u) and substitute:

- (u) For the purposes of paragraph (t), a material change in circumstances includes, but is not limited to:
  - (1) a change to the key assumptions used in identifying the *identified need* described in the *final project assessment report*;
  - (2) for a *RIT-D project* contemplated by clause 5.17.4(j)(13), one or more *RIT reopening triggers* applying to the project having been triggered; or
  - (3) a change in circumstances which, in the reasonable opinion of the *RIT-D proponent*, means that the *preferred option* identified in the *final project assessment report* may no longer be the *preferred option*.



#### **[47] Clause 5.17.4 Regulatory investment test for distribution procedures**

After clause 5.17.4(u), insert:

- (u1) When proposing any actions to take and/or associated timeframes under subparagraph (t)(4), the *RIT-D proponent* must have regard to:
  - (1) whether, in the *RIT-D proponent's* reasonable opinion, the reapplication of the *regulatory investment test for distribution* to the *RIT-D project* is justified in the circumstances;
  - (2) the costs and delay that may result from the actions the *RIT-D proponent* proposes to take as a result of the material change in circumstances; and
  - (3) the costs and delay that may result from the reapplication (in whole or in part) of the *regulatory investment test for distribution* to the *RIT-D project*.
- (u2) The actions the *RIT-D proponent* proposes to take under subparagraph (t)(4) must at a minimum include:
  - (1) *publishing* a statement that the *preferred option* identified remains the *preferred option*, as well as any supporting information necessary to demonstrate that the *preferred option* identified remains the *preferred option*; or
  - (2) *publishing* a statement that the *preferred option* is no longer the *preferred option* and identifying the new *preferred option*, as well as any supporting information necessary to demonstrate that the *preferred option* is no longer the *preferred option* and the reasons the new *preferred option* is the *preferred option*.

#### **[48] Clause 5.17.4 Regulatory investment test for distribution procedures**

Omit clause 5.17.4(v) and substitute:

- (v) When making a determination under paragraph (w), the *AER*:
  - (1) must have regard to:
    - (i) the *credible options* (other than the *preferred option*) identified in the *final project assessment report*;
    - (ii) the material change in circumstances identified by the *RIT-D proponent*;
    - (iii) whether a failure to promptly undertake the *RIT-D project* is likely to materially affect the *reliability* and *secure operating state* of the *distribution network* or a significant part of that *network*; and

- (iv) whether the *RIT-D proponent* has had regard to the matters required under paragraph (u1); and
- (2) may request additional information or analysis from the *RIT-D proponent* that the *AER* considers reasonably necessary to assist it in making a determination under paragraph (w).

#### **[49] Clause 5.17.4 Regulatory investment test for distribution procedures**

After clause 5.17.4(v), insert:

- (w) Subject to paragraph (y), within 40 days of receipt by the *AER* of a notice referred to in subparagraph (t)(4), the *AER* must:
  - (1) *publish* the notice referred to in subparagraph (t)(4);
  - (2) make a determination whether to approve or reject any actions (and/or associated timeframes) notified by the *RIT-D proponent* under subparagraph (t)(4) and, where the *AER* approves any such actions, specify a reasonable timeframe within which such actions must be completed;
  - (3) notify the *RIT-D proponent* of the determination;
  - (4) where the *AER* rejects the actions (and/or associated timeframes) notified by the *RIT-D proponent* under subparagraph (t)(4), specify the actions (if any) the *AER* requires the *RIT-D proponent* to take, which may include the *RIT-D proponent* reapplying (in whole or in part) the *regulatory investment test for distribution* to the *RIT-D project*, as well as a reasonable timeframe within which any such actions must be completed; and
  - (5) *publish* the determination made under subparagraph (w)(2) or subparagraph (w)(4) (as applicable).
- (x) If the *AER* does not make the determination within the time required by paragraph (w), then the *AER* is taken to have approved the actions notified by the *RIT-D proponent* under paragraph (t)(4).
- (y) Where the *AER* requests additional information or analysis under subparagraph (v)(2), the period of time for making a determination under paragraph (w) is automatically extended by the time it takes the *RIT-T proponent* to provide the additional information or analysis to the *AER* provided that the *AER* makes the request for additional information at least seven days prior to the expiry of the period of time for making a determination under paragraph (w).
- (z) At the same time that a *RIT-D proponent* submits an application under clause 6.6A.2(a), the *RIT-D proponent* must provide the *AER* with a statement containing confirmation:

- (1) on whether or not there has been a material change in circumstances contemplated under subparagraph (t)(3) and any supporting analysis;
  - (2) that the *RIT-D proponent* has complied with its obligations under paragraphs (t), (u1) and (u2);
  - (3) of the actions (if any) the *RIT-D proponent* was required to take pursuant to a determination by the *AER* under paragraph (w) and timeframe within which any such actions were to be completed; and
  - (4) of the actions (if any) the *RIT-D proponent* took as a result of the material change in circumstances and the date on which any such actions were completed.
- (z1) At the same time, or as soon as reasonably practicable after, the *RIT-D proponent's* submission under paragraph (z), the *RIT-D proponent* must *publish* the statement referred to in paragraph (z).

**[50] Clause 5.22.5 Guidelines relevant to the ISP**

In clause 5.22.5(b)(2), omit "*Transmission Network Service Providers*" and substitute "*RIT-T proponents*".

**[51] Clause 5.22.5 Guidelines relevant to the ISP**

In clause 5.22.5(b)(2), omit "." and substitute "; and".

**[52] Clause 5.22.5 Guidelines relevant to the ISP**

After clause 5.22.5(b)(2), insert:

- (3) by a *RIT-T proponent* in ascertaining whether a material change in circumstances has occurred that would require it to take the steps required pursuant to clauses 5.16A.4(n)(3), 5.16A.4(n)(4) and 5.16A.4(n)(5).

**[53] Clause 5.22.5 Guidelines relevant to the ISP**

In clause 5.22.5(c), omit "*RIT-proponents*" and substitute "*RIT-T proponents*".

**[54] Clause 5.22.5 Guidelines relevant to the ISP**

Omit clause 5.22.5(g) and substitute:

- (g) An amendment to the *Cost Benefit Analysis Guidelines*:
  - (1) relating to a matter specified in subparagraphs (b)(1) or (2) does not apply to a current application of the *regulatory investment test for transmission* for an *actionable ISP project* or a current process for the development of an *Integrated System Plan*;

- (2) relating to the matter specified in subparagraph (b)(3) does not apply to:
  - (i) a stage of an *actionable ISP project* that is a staged *actionable ISP project* after the *RIT-T proponent* has prepared a *project assessment draft report* in respect of that stage; or
  - (ii) an *actionable ISP project* that is not a staged *actionable ISP project* after the *RIT-T proponent* has prepared a *project assessment draft report* in respect of that project.

### **[55] Clause 6.6A.2 Amendment of distribution determination for contingent project**

In clause 6.6A.2(e), omit the opening paragraph and substitute:

- (e) Subject to paragraph (e1), if the *AER* is satisfied that:
  - (1A) the *trigger event* has occurred;
  - (1B) the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6.6A.1(b)(2)(iii); and
  - (1C) the *Distribution Network Service Provider* has complied with its obligations under clauses 5.17.4(z) and 5.17.4(z1),it must:

### **[56] Clause 6A.8.2 Amendment of revenue determination for contingent project**

In clause 6A.8.2(e), omit the opening paragraph and substitute:

- (e) If the *AER* is satisfied that:
  - (1A) the *trigger event* has occurred;
  - (1B) the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii); and
  - (1C) the *Transmission Network Service Provider* has complied with its obligations under clauses 5.16.4(z5D), 5.16.4(z5E), 5.16A.4(t) and 5.16A.4(u) (as applicable),it must:

### **[57] Chapter 10 New definitions**

Insert the following definitions in alphabetical order:

***RIT reopening trigger***

Means the events, factors, or circumstances which, if they occur or eventuate would mean that the *preferred option* for a *RIT-D project* contemplated by clause 5.17.4(j)(13) or *RIT-T project* contemplated by clause 5.16.4(k)(10) or clause 5.16A.4(d)(9) may no longer be the *preferred option*, and may include a change in the key assumptions used in identifying or ranking the *credible options* for that project.

## Schedule 2 Savings and Transitional Amendment to the National Electricity Rules

(Clause 4)

### [1] New Part ZZZZZD Material change in network infrastructure project costs

After Part ZZZZZC, insert:

#### Part ZZZZZD Material change in network infrastructure project costs

#### 11.154 Rules consequential on the making of the National Electricity Amendment (Material change in network infrastructure project costs) Rule 2022

##### 11.154.1 Definitions

- (a) For the purposes of this Part ZZZZZD:

**Amending Rule** means the *National Electricity Amendment (Material Change in Network Infrastructure Project Costs) Rule 2022*.

**commencement date** means the date on which Schedule 1 of the Amending Rule commences operation.

- (b) For the purposes of this rule 11.154, a reference to a new clause is a reference to that clause as it is either set to commence or has commenced pursuant to the Amending Rule.

##### 11.154.2 Application to existing projects

- (a) New clauses 5.15.3, 5.16A.2, 5.16A.4, 5.22.5 and 6A.8.2 do not apply to:
- (1) a stage of an *actionable ISP project* that is a staged *actionable ISP project* if, prior to the commencement date, the *RIT-T proponent* has prepared a *project assessment draft report* in respect of that stage; or
  - (2) an *actionable ISP project* that is not a staged *actionable ISP project* if, prior to the commencement date, the *RIT-T proponent* has prepared a *project assessment draft report* in respect of that project.
- (b) New clauses 5.15.3, 5.16.2, 5.16.4 and 6A.8.2 do not apply to a *RIT-T project* if, prior to the commencement date, the *RIT-T proponent* has prepared a *project assessment draft report* in respect of that project.

- (c) New clauses 5.15.3, 5.17.2, 5.17.4 and 6.6A.2 do not apply to a *RIT-D project* if, prior to the commencement date, the *RIT-D proponent* has prepared a *draft project assessment report* in respect of that project.

### **11.154.3 Updates to AER guidelines**

- (a) Prior to the commencement date, the *AER* must update and *publish*:
  - (1) the *Cost Benefit Analysis Guidelines* required under clause 5.22.5 to comply with the requirements set out in new clause 5.16A.2, and in doing so must comply with the *Rules consultation procedures*;
  - (2) the *regulatory investment test for transmission application guidelines* required under clause 5.16.2 to comply with the requirements set out in new clause 5.16.2(c), and in doing so must comply with the *transmission consultation procedures*; and
  - (3) the *regulatory investment test for distribution application guidelines* required under clause 5.17.2 to comply with the requirements set out in new clause 5.17.2(c), and in doing so must comply with the *distribution consultation procedures*.
- (b) If, prior to the commencement date and for the purposes of updating any of the guidelines described in subparagraph (a) in anticipation of the Amending Rule, the *AER* undertook consultation or steps equivalent to that as required in the *Rules consultation procedures*, *transmission consultation procedures* or *distribution consultation procedures* (as applicable), then that consultation or steps undertaken is taken to satisfy the equivalent consultation or steps under the *Rules consultation procedures*, *transmission consultation procedures* or *distribution consultation procedures* (as applicable).

[END OF RULE AS MADE]

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