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

under the National Electricity Law to the extent applied by:

1. the National Electricity (South Australia) Act 1996 of South Australia;
2. the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;
3. the Electricity - National Scheme (Queensland) Act 1997 of Queensland;
4. the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;
5. the National Electricity (New South Wales) Act 1997 of New South Wales;
6. the National Electricity (Victoria) Act 2005 of Victoria;
7. the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 of the Northern Territory; and
8. 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.*

1. **Commencement**

Schedule 1 of the Rule commences operation on 9 October 2023. Schedule 2 of this Rule commences operation on 27 October 2022.

1. **Amendment to the National Electricity Rules**

The National Electricity Rules are amended as set out in [Schedule 1.](#_bookmark2)

1. **Savings and Transitional Amendment to the National Electricity Rules**

The National Electricity Rules are amended as set out in [Schedule 2.](#_bookmark3)

**Schedule 1**

**Amendment to the National Electricity Rules**

[(Clause 3)](#_bookmark1)

1. **Clause 5.15.3 Review of costs thresholds**

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

1. **Clause 5.15.3 Review of costs thresholds**

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

1. **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).

1. **Clause 5.15.3 Review of costs thresholds**

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

1. **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).

1. **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".

1. **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".

1. **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".

1. **Clause 5.16.2 Regulatory investment test for**

**transmission application guidelines**

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

1. **Clause 5.16.2 Regulatory investment test for**

**transmission application guidelines**

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

* 1. the purpose of, and appropriate approach to developing, *RIT reopening triggers*, as well as examples of potential:
		1. *RIT reopening triggers*; and
		2. actions that may be taken in response to a *RIT reopening trigger* being triggered.
1. **Clause 5.16.2 Regulatory investment test for**

**transmission application guidelines**

Omit clause 5.16.2(f) and substitute:

1. 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.
2. **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*.

1. **Clause 5.16.4 Regulatory investment test for**

**transmission procedures**

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

1. **Clause 5.16.4 Regulatory investment test for**

**transmission procedures**

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

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

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

1. **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.
7. **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*.
3. **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*.
4. **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*.
3. **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:
	1. the credible options (other than the *preferred option*) identified in the *project assessment conclusions report*;
	2. the material change in circumstances identified by the

*RIT-T proponent*;

* 1. 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
	2. whether the *RIT-T proponent* has had regard to the matters required under paragraph (z4A); and
1. 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).
2. **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;

1. notify the *RIT-T proponent* of the determination;
2. 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
3. *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).

1. **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".

1. **Clause 5.16A.2 Cost Benefit Analysis Guidelines**

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

1. **Clause 5.16A.2 Cost Benefit Analysis Guidelines**

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

1. **Clause 5.16A.2 Cost Benefit Analysis Guidelines**

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

1. the purpose of, and appropriate approach to developing, *RIT reopening triggers*, as well as examples of potential:
	1. *RIT reopening triggers*; and
	2. actions that may be taken in response to a *RIT reopening trigger* being triggered.
2. **Clause 5.16A.4 Regulatory investment test for**

**transmission procedures**

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

1. **Clause 5.16A.4 Regulatory investment test for**

**transmission procedures**

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

1. **Clause 5.16A.4 Regulatory investment test for**

**transmission procedures**

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

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

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

1. **Clause 5.16A.4 Regulatory investment test for**

**transmission procedures**

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

1. 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:
		1. any material change in circumstances; or
		2. *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:

* 1. 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;
	2. 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
	3. 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.
1. **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*.
3. **Clause 5.16A.4 Regulatory investment test for**

**transmission procedures**

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

1. 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*.
2. **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*.
3. **Clause 5.16A.4 Regulatory investment test for**

**transmission procedures**

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

1. When making a determination under paragraph (q), the *AER*:
	1. must have regard to:
		1. the *credible options* (other than the *preferred option*) identified in the *project assessment conclusions report*;
		2. the material change in circumstances identified by the

*RIT-T proponent* or *AEMO*;

* + 1. 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
		2. whether the *RIT-T proponent* has had regard to the matters required under paragraph (o1); and
	1. 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).
1. **Clause 5.16A.4 Regulatory investment test for**

**transmission procedures**

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

1. 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;

* 1. notify the *RIT-T proponent* of the determination;
	2. 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
	3. *publish* the determination made under subparagraph (q)(2) or subparagraph (q)(4) (as applicable).
1. 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).
2. 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).
3. 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.
4. 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).
5. **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".

1. **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".

1. **Clause 5.17.2 Regulatory investment test for**

**distribution application guidelines**

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

1. **Clause 5.17.2 Regulatory investment test for**

**distribution application guidelines**

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

1. **Clause 5.17.2 Regulatory investment test for**

**distribution application guidelines**

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

1. the purpose of, and appropriate approach to developing, *RIT reopening triggers*, as well as examples of potential:
	1. *RIT reopening triggers*; and
	2. actions that may be taken in response to a *RIT reopening trigger* being triggered.
2. **Clause 5.17.2 Regulatory investment test for**

**distribution application guidelines**

Omit clause 5.17.2(f) and substitute:

1. 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.

1. **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*.

1. **Clause 5.17.4 Regulatory investment test for**

**distribution procedures**

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

1. **Clause 5.17.4 Regulatory investment test for**

**distribution procedures**

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

1. **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*.

1. **Clause 5.17.4 Regulatory investment test for**

**distribution procedures**

Omit clause 5.17.4(t) and substitute:

1. 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;

* 1. 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
	2. 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.
1. **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*.
3. **Clause 5.17.4 Regulatory investment test for**

**distribution procedures**

Omit clause 5.17.4(u) and substitute:

1. 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*;

* 1. 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
	2. 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*.
1. **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*.
3. **Clause 5.17.4 Regulatory investment test for**

**distribution procedures**

Omit clause 5.17.4(v) and substitute:

1. When making a determination under paragraph (w), the *AER*:
	1. must have regard to:
		1. the *credible options* (other than the *preferred option*) identified in the *final project assessment report*;
		2. the material change in circumstances identified by the

*RIT-D proponent*;

* + 1. 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
		2. whether the *RIT-D proponent* has had regard to the matters required under paragraph (u1); and
	1. 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).
1. **Clause 5.17.4 Regulatory investment test for**

**distribution procedures**

After clause 5.17.4(v), insert:

1. 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).
2. 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).
3. 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).
4. 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).

1. **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*".

1. **Clause 5.22.5 Guidelines relevant to the ISP**

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

1. **Clause 5.22.5 Guidelines relevant to the ISP**

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

1. 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).
2. **Clause 5.22.5 Guidelines relevant to the ISP**

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

1. **Clause 5.22.5 Guidelines relevant to the ISP**

Omit clause 5.22.5(g) and substitute:

1. 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:
		1. 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
		2. 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.
2. **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:

1. **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:

1. **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)](#_bookmark0)

1. **New Part ZZZZZD Material change in network**

**infrastructure project costs**

After Part ZZZZZC, insert:

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

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

# Definitions

* + - 1. 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.

* + - 1. 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.

# Application to existing projects

* + - 1. 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.
			2. 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.
			3. 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.

# Updates to AER guidelines

* + - 1. 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*;

* + - * 1. 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
				2. 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*.
			1. 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]