



## **National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9**

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.

John Tamblyn  
Chairman  
Australian Energy Market Commission

## **National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9**

### **1. Title of Rule**

This Rule is the *National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9*.

### **2. Commencement**

This Rule commences operation on 23 October 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 5.6.2A Annual Planning Report

At the end of clause 5.6.2A(ii), omit “and”.

### [2] Clause 5.6.2A Annual Planning Report

Omit the "." at the end of clause 5.6.2A(b)(5)(iii) and substitute:

; and

(6) for all proposed *replacement transmission network assets*:

- (i) a brief description of the new *replacement transmission network asset* project, including location;
- (ii) the date from which the *Transmission Network Service Provider* proposes that the proposed new *replacement transmission network asset* will become operational;
- (iii) the purpose of the proposed new *replacement transmission network asset*;
- (iv) a list of any reasonable *network* or *non-network* alternatives to the proposed new *replacement transmission network asset* which are being, or have been, considered by the *Transmission Network Service Provider* (if any). Those alternatives include, but are not limited to, *interconnectors*, *generation* options, *demand side* options, *market network service* options and options involving other *transmission* or *distribution networks*; and
- (v) the *Transmission Network Service Provider's* estimated total capitalised expenditure on the proposed new *replacement transmission network asset*.

### [2] Clause 5.6.6C Review of total capitalised expenditure thresholds

Insert the following new clause after clause 5.6.6B:

#### 5.6.6C Review of total capitalised expenditure thresholds

- (a) Every 3 years the *AER* must undertake a review (*the ‘total capitalised expenditure threshold review’*) of the changes in the input costs used to calculate the *total capitalised expenditure thresholds*. The purpose of the review is to determine whether those amounts need to be changed to maintain the value of the *total capitalised expenditure thresholds* over time by adjustment to reflect any increase or decrease in the input costs for *new transmission network investment* since:

- (1) 1 July 2008 in respect of the first *total capitalised expenditure threshold review*; and
  - (2) the date of the previous review in respect of every subsequent *total capitalised expenditure threshold review*.
- (b) Each *total capitalised expenditure threshold review* is to be commenced by the AER on 31 July of the relevant year, with the first such review to be initiated in 2011.
- (c) Within 6 weeks following the commencement of a *total capitalised expenditure threshold review* the AER must *publish* a draft determination outlining:
  - (1) whether or not the AER has formed the view that any of the *total capitalised expenditure thresholds* need to be amended to reflect increases or decreases in the input costs to ensure that the value of the *total capitalised expenditure thresholds* is maintained over time;
  - (2) its reasons for determining whether or not the *total capitalised expenditure thresholds* need to be varied to reflect increases or decreases in the input costs;
  - (3) if there is to be a variation in a *total capitalised expenditure threshold*, the amount of the new *total capitalised expenditure threshold* and the date the new *total capitalised expenditure threshold* will take effect; and
  - (4) its reasons for determining the amount of the new *total capitalised expenditure threshold*.
- (d) At the same time as it *publishes* the draft determination under clause 5.6.6C(c), the AER must *publish* a notice seeking submissions on the draft determination. The notice is to specify the period within which written submissions can be made (the '*total capitalised expenditure threshold consultation period*'). The *total capitalised expenditure threshold consultation period* must be no longer than 5 weeks.
- (e) The AER is to consider any written submissions received during the *total capitalised expenditure threshold consultation period* in making its final determination in respect of the matters outlined in clause 5.6.6C(c). This final determination must be made and *published* by the AER within 5 weeks following the end of the *total capitalised expenditure threshold consultation period*.
- (f) The new *total capitalised expenditure thresholds* (if any) will take effect to vary the then current *total capitalised expenditure thresholds* with effect from the relevant date specified in the *total capitalised expenditure threshold determination*.

**[3] Clause 9.3.2 Network Service Provider**

Insert after clause 9.3.2(c):

- (d) *VENCorp* must obtain the information from *SPI PowerNet* which *VENCorp* is required by clause 5.6.2A to publish in the *Annual Planning Report* in relation to *replacement transmission network assets*. *SPI PowerNet* must provide that information to *VENCorp* by 28 February in each year.

**[4] Chapter 10 Amended Definitions**

In Chapter 10, omit the following definitions and substitute:

**new large transmission network asset**

An asset of a *Transmission Network Service Provider* which is an *augmentation* and in relation to which the *Transmission Network Service Provider* has estimated it will be required to invest a total capitalised expenditure in excess of \$20 million (as varied in accordance with a *total capitalised expenditure threshold determination*).

**new small transmission network asset**

An asset of a *Transmission Network Service Provider* which is an *augmentation* and:

- (a) in relation to which the *Transmission Network Service Provider* has estimated it will be required to invest a total capitalised expenditure in excess of \$5 million (as varied in accordance with a *total capitalised expenditure threshold determination*); and
- (b) is not a *new large transmission network asset*.

**[5] Chapter 10 New definitions**

In Chapter 10, insert the following new definitions in alphabetical order:

**replacement transmission network asset**

A new asset of a *Transmission Network Service Provider* that will replace any existing element of its *transmission network* in respect of which the *Transmission Network Service Provider* reasonably estimates it will be required to invest total capitalised expenditure in excess of \$5 million (as varied in accordance with a *total capitalised expenditure threshold determination*). For the avoidance of doubt, if the expenditure on replacing any existing element also results in an *augmentation* to the network, then such an asset shall be included in this definition where the *Transmission Network Service Provider* has estimated that the asset will have a total capitalised expenditure in excess of \$5 million.

**total capitalised expenditure threshold**

Means each of the following amounts:

- (a) the total capitalised expenditure in excess of \$20 million referred to in the definition of "new large transmission network asset";
- (b) the total capitalised expenditure in excess of \$5 million referred to in the definition of "new small transmission network asset"; and
- (c) the total capitalised expenditure in excess of \$5 million referred to in the definition of "replacement transmission network asset".

**total capitalised expenditure threshold consultation period**

Has the meaning given in clause 5.6.6C(d).

**total capitalised expenditure threshold determination**

Means a determination made by the *AER* in accordance with clause 5.6.6C(e).

**total capitalised expenditure threshold review**

Has the meaning given in clause 5.6.6C(a).

**[6] Chapter 11 Savings and Transitional Rules**

After rule 11.21, insert:

**Part R Regulatory Test Thresholds and Information Disclosure on Network Replacements**

**11.22 Rules consequential on the making of the National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9**

**11.22.1 Definitions**

In this rule 11.22:

**amended definitions** means the definitions of "new large transmission network asset" and "new small transmission network asset" as amended by the Amending Rule.

**Amending Rule** means the National Electricity Amendment (Regulatory Test Thresholds and Information Disclosure on Network Replacements) Rule 2008 No. 9.

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

**old definitions** means the definitions of "new large transmission network asset" and "new small transmission network asset" as in force immediately before the commencement date.

**11.22.2 Amending Rule does not affect existing regulatory test**

The old definitions continue to apply in place of the amended definitions following the commencement date in respect of:

- (a) a *new small transmission network asset* for which a *Transmission Network Service Provider* has set out the matters required under clauses 5.6.2A(b)(4) and (5) in an *Annual Planning Report published* prior to the commencement date;
- (b) a *new small transmission network asset* not identified in an *Annual Planning Report* for which a *Transmission Network Service Provider* has *published* a report required under clause 5.6.6A(c) prior to the commencement date; and
- (c) a *new large transmission network asset* for which a *Transmission Network Service Provider* has taken an action or commenced a process under the *Rules* which relies on or is referenced to the *Regulatory Test* (such as *publishing* an application notice under clause 5.6.6(c)) that has not completed prior to the commencement date.

END OF RULE AS MADE

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