

**Agreed interim requirements  
for relevant providers  
pursuant to  
rule 11.8 of the *National Electricity Rules***

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## **Explanatory statement**

The Australian Energy Regulator (AER) is responsible for regulating the revenues and approving the pricing methodologies of transmission network service providers (TNSPs) in the National Electricity Market in accordance with the *National Electricity Rules* (NER).

The NER requires a TNSP to submit, and the AER to assess, a proposed pricing methodology against the pricing principles in rule 6A.23 of the NER and the pricing methodology guidelines to be developed by the AER (by 31 October 2007) pursuant to rule 6A.25 of the NER. As this date is after the revenue proposal and pricing proposal deadlines for SP AusNet, VENCORP and ElectraNet (together the relevant providers), rule 11.8 of the NER requires the AER to develop transitional arrangements (referred to as the ‘agreed interim requirements’) in consultation with the relevant providers to address the process by which the AER will assess a relevant provider’s proposed pricing methodology.

## **Rule requirements**

Clause 11.8.1 of the NER defines the agreed interim requirements to be:

requirements that are equivalent to the requirements of the *pricing methodology guidelines* referred to in rule 6A.25 and had been developed in consultation with the *relevant providers* for the purposes of a proposed 2008 *pricing methodology*.

Clause 11.8.4 of the NER specifies that the agreed interim requirements are to take the place of the pricing methodology guidelines for the relevant providers. It specifies:

[f]or the purpose of making a 2008 pricing methodology, anything that must be done in accordance with the *pricing methodology guidelines* must instead be done in accordance with the *agreed interim requirements*.

## **The nature and reasons for the agreed interim requirements**

The purpose of this document is to fulfil the AER’s obligations under rule 11.8 of the NER by finalising and setting out the agreed interim requirements.

### **Transitional guidelines—the agreed interim requirements**

The AER believes that in lieu of the AER’s pricing methodology guidelines, it is appropriate for the relevant provider’s proposed pricing methodology to be assessed against the provisions in Part C of Chapter 6 of the NER (as in force immediately before the commencement of the National Electricity Amendment (Economic Regulation of Transmission Services) Rule and as reflected in version 9 of the NER), to the extent those provisions are not inconsistent with the pricing principles in Part J of the NER.

### **Application of the final pricing methodology guidelines**

Clause 6A.25.1 of the NER requires the AER to publish its final pricing methodology guidelines no later than 31 October 2007. The AER acknowledges there are benefits in

allowing the relevant providers to move to the new pricing regime if it is possible to do so. The alternative is that these relevant providers will continue to be regulated under a transitional regime for their next regulatory control period, a period of at least five years. However, any mechanism designed to allow any of these relevant providers to move to the new pricing must be consistent with the provisions of the NER and the requirements of due process. In practice, this makes it unlikely that it will be possible to transition SP AusNet to the new regime from 2008.

With these principles in mind, the AER has put in place the following mechanism to enable early transition to the new pricing regime.

1. Each relevant provider must submit a proposed pricing methodology in accordance with these agreed interim requirements.
2. Once the AER has published its final pricing methodology guidelines, the relevant provider can, within 10 business days, elect to be subject to the final pricing methodology guidelines instead of the agreed interim requirements. Giving this choice to the relevant provider ensures that the NER and the agreed interim requirements will not deprive the relevant provider of any right to have its original proposed pricing methodology approved by the AER under rule 6A.25 of the NER. If a relevant provider does not so elect, its original proposed pricing methodology will continue to be assessed against the agreed interim requirements in accordance with rule 11.8 of the NER.
3. If a relevant provider does make an election, the AER will assess the relevant provider's original proposed pricing methodology against the final pricing methodology guidelines in making its draft decision. This obviously creates a greater likelihood the relevant provider's original proposed pricing methodology will not be approved by the AER. In this event the AER must state, in its draft decision, the changes required or the matters to be addressed in order for the pricing methodology to be approved.
4. Following the draft decision, the relevant provider may submit a revised pricing methodology which addresses the issues identified in the draft decision and is consistent with the final pricing methodology guidelines. The relevant provider has 10 business days following the publication of the draft decision to submit a revised pricing methodology to the AER rather than the 30 business days provided for in the NER. The consultation process that follows the draft decision will enable interested parties to comment on the revised pricing methodology. The AER does not believe this will disadvantage the relevant providers, as they will have been able to begin work on a revised pricing methodology from the publication of the final pricing methodology guidelines, if not before.

# The agreed interim requirements

## 1.1 Introduction

The following provisions constitute the *agreed interim requirements* as developed by the AER in consultation with the *relevant providers*, for the purposes of a proposed 2008 *pricing methodology* to be submitted by the *relevant providers* to the AER for approval.

## 1.2 Authority

- (a) Clause 11.8.1 of the *National Electricity Rules* requires the AER to develop, in consultation with the *relevant providers*, the *agreed interim requirements*.
- (b) Clause 11.8.4 of the *National Electricity Rules* specifies that, for the purposes of making a 2008 *pricing methodology*, the *agreed interim requirements* are to take the place of the *pricing methodology guidelines* for the *relevant providers*.

## 1.3 Role of these agreed interim requirements

The role of these *agreed interim requirements* is to detail the basis for:

- (a) A *relevant provider* in preparing and submitting its proposed *pricing methodology* or revised *pricing methodology* to the AER for approval;
- (b) The AER approving or rejecting a *relevant provider's* proposed *pricing methodology* or approving or rejecting a *relevant provider's* revised *pricing methodology*; and
- (c) A *relevant provider* applying its approved *pricing methodology* during the *relevant provider's next regulatory control period*.

## 1.4 Relationship between the agreed interim requirements and the National Electricity Rules

- (a) Each *relevant provider* must develop a proposed *pricing methodology* for submission to the AER in accordance with the requirements of these *agreed interim requirements*.
- (b) The *pricing methodology* approved by the AER must be applied by the *relevant provider* for the purposes of setting *prescribed transmission service prices* in accordance with the requirements of the *National Electricity Rules*.
- (c) The AER will monitor, report on and enforce compliance with a *relevant provider's* approved *pricing methodology* in accordance with the requirements of the *National Electricity Rules*.

## 1.5 Confidentiality

The AER's obligations regarding confidentiality and the disclosure of information provided to it by a *relevant provider* are governed by the *Trade Practices Act 1974*, the *National Electricity Law* and the *National Electricity Rules*.

## 1.6 Definitions and interpretation

- (a) In these *agreed interim requirements*:
  - (1) The words and phrases presented in italics *such as this* are defined in the Glossary of these *agreed interim requirements* and have the meaning given to them in:
    - A. the Glossary; or
    - B. if not defined in the Glossary, the *National Electricity Rules*.
  - (2) The words ‘shall’ and ‘must’ indicate mandatory requirements, unless the overall meaning of the phrase in which one of these words appears, is otherwise.
- (b) Explanations in these *agreed interim requirements* about why certain information is required are provided for guidance only. They do not in any way limit the AER’s objectives, functions or powers.

## Guidelines

### 2.1 Application of Part C of Chapter 6 of the old National Electricity Rules

- (a) Subject to the proposed *pricing methodology* being consistent with the *pricing principles* in rule 6A.23 of the *National Electricity Rules*, the proposed *pricing methodology* must be:
  - (1) to the extent applicable, consistent with clause 9.8.4F of the *National Electricity Rules*; and
  - (2) consistent with Part C of Chapter 6 of the *old National Electricity Rules*.
- (b) In accordance with paragraph (a), the proposed *pricing methodology* must demonstrate:
  - (1) the allocation of the *aggregate annual revenue requirement* and the delineation of assets to classes of transmission services is consistent with rule 6.3 of the *old National Electricity Rules*;
  - (2) the allocation of the *aggregate annual revenue requirement* among all assets used in the provision of transmission services in order to allocate the costs involved in the provision of transmission services is consistent with rule 6.4 of the *old National Electricity Rules*; and
  - (3) the conversion of the allocated costs in rule 6.4 of the *old National Electricity Rules* into prices and charges is consistent with rule 6.5 of the *old National Electricity Rules*.

### 2.2 Information requirements for a proposed pricing methodology

- (a) A *relevant provider* must submit to the AER with its proposed *pricing methodology*:

- (1) a detailed explanation of the proposed *pricing methodology* including, where appropriate, worked examples; and
- (2) a description of the differences between the *pricing methodology* applied during the *current regulatory control period* and the proposed *pricing methodology*.

### **2.3 Relevant provider may elect to be subject to the final pricing methodology guidelines**

(a) Within 10 *business days* of the *AER* publishing its *pricing methodology guidelines* under rule 6A.25 of the *National Electricity Rules*, the *relevant provider* may, by notice in writing to the *AER*, elect to have its proposed *pricing methodology* assessed against the *pricing methodology guidelines* instead of these *agreed interim requirements*.

(b) If:

- (1) the *relevant provider* makes an election in accordance with paragraph (a); and
- (2) the *AER*, in its *draft decision* under rule 6A.12 of the *National Electricity Rules*, refuses to approve the *relevant provider's* proposed *pricing methodology*;

the *relevant provider* must submit revisions to its proposed *pricing methodology*, in accordance with clause 6A.12.3 of the *National Electricity Rules*, within 10 *business days* of the publication of the *AER's* *draft decision*.

(c) A revised *pricing methodology* must:

- (1) demonstrate consistency with the *pricing principles* in rule 6A.23 of the *National Electricity Rules*; and
- (2) demonstrate consistency with the *pricing methodology guidelines*.

(d) If the *relevant provider* makes an election in accordance with paragraph (a), the *relevant provider* will be subject to the *pricing methodology guidelines*, and these *agreed interim requirements*, with the exception of this clause 2.3 and clause 2.4 below, will cease to apply to that *relevant provider*.

(e) If the *relevant provider* makes an election in accordance with paragraph (a), in notifying the *AER* of its election by writing, the *relevant provider* must also provide a detailed explanation of the reasons why its original proposed *pricing methodology* does not comply with the *pricing methodology guidelines*.

(f) Paragraph (a) does not apply if the *AER* has made a *draft decision* for a *relevant provider* with respect to a proposed *pricing methodology* before it publishes its *pricing methodology guidelines*

### **2.4 Information requirements for a revised pricing methodology**

(a) A *relevant provider* must submit to the *AER* with any revised *pricing methodology*:

- (1) a detailed explanation of the revised *pricing methodology* including, where appropriate, worked examples; and
- (2) a description of any differences between the revised *pricing methodology* and the original proposed *pricing methodology*.

## Glossary

**agreed interim requirements** means these *agreed interim requirements* which provide transitional arrangements for the purposes of a 2008 proposed *pricing methodology* to be submitted by the *relevant providers* pursuant to rule 11.8 of the *National Electricity Rules*.

**aggregate annual revenue requirement** has the meaning as defined in rule 6.3 of the *old National Electricity Rules*.

**Australian Energy Regulator** or **AER** has the meaning set out in the *National Electricity Law*.

**business day** has the meaning set out in Chapter 10 of the *National Electricity Rules*.

**current regulatory control period** means the regulatory control period 1 January 2003 to 31 March 2008 for *SP AusNet*; the regulatory control period 1 January 2003 to 30 June 2008 for *VENCorp*; and the regulatory control period 1 January 2003 to 30 June 2008 for *ElectraNet*.

**draft decision** means the draft decision the AER is required to publish pursuant to clauses 6A.12.1 and 6A.12.2 of the *National Electricity Rules* in relation to a *relevant provider's* proposed *pricing methodology* or revised *pricing methodology*.

**ElectraNet** means ElectraNet Pty Ltd ACN 094 482 416.

**National Electricity Law** means the *National Electricity Law* as set out in the schedule to the *National Electricity (South Australia) Act 1996*.

**National Electricity Rules** means the rules, as defined in Part 7 of the *National Electricity Law*.

**next regulatory control period** means the regulatory control period 1 April 2008 to 31 March 2013 for *SP AusNet*; the regulatory control period 1 July 2008 to 30 June 2013 for *VENCorp*; and the regulatory control period 1 July 2008 to 30 June 2013 for *ElectraNet*.

**old National Electricity Rules** means the *National Electricity Rules* as in force immediately before the commencement of the *National Electricity Amendment (Economic Regulation of Transmission Services) Rule* and as reflected in version 9 of the *National Electricity Rules*.

**pricing methodology** has the meaning as defined in clause 6A.24.1(b) of the *National Electricity Rules*.

**pricing methodology guidelines** means the *pricing methodology guidelines* to be developed by the AER by 31 October 2007 pursuant to rule 6A.25 of the *National Electricity Rules*.

**pricing principles** means the *pricing principles* as set out in rule 6A.23 of the *National Electricity Rules*.

**Relevant provider** means *SP AusNet* or *VENCorp* or *ElectraNet*.

**Relevant providers** means *SP AusNet* and *VENCorp* and *ElectraNet*.

***SP AusNet*** means SPI PowerNet Pty Ltd ACN 079 798 173.

***VENCorp*** means the Victorian Energy Networks Corporation established under the *Gas Industry Act 1994* (Vic) and continued under the *Gas Industry Act 2001* (Vic).