



AUSTRALIAN  
ENERGY  
REGULATOR

**Final**

**Process guideline for contingent project applications  
under the National Electricity Rules**

**September 2007**



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#### Amendment record

<b>Version no.</b>	<b>Date</b>	<b>Pages</b>
01	7 September 07	25

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# 1 Introduction

The purpose of the *Process guideline for contingent project applications under the National Electricity Rules* is to assist transmission network service providers (TNSPs) to meet the requirements set out in the National Electricity Rules (NER) with respect to lodging an application to amend their revenue determination to include the revenue required for a contingent project under clause 6A.8 of the NER (contingent project applications).

The NER set out detailed requirements relating to the TNSP's application and the AER's assessment.<sup>1</sup> These requirements include information that TNSPs must provide when they make an application, the factors that the AER must consider in assessing that information, and the timeframes in which the AER must make its decision. The consequences for TNSPs of failing to understand these requirements can be significant.

This guideline highlights key NER processes and requirements to help TNSPs prepare contingent project applications.<sup>2</sup> Importantly:

- The AER will only publish an application or make a decision on it if the TNSP's application is made in accordance with clauses 6A.8.2(a) and (b) and, in particular, contains the information specified in clause 6A.8.2(b)(3) of the NER. Therefore, it is essential that TNSPs ensure that any application satisfies NER requirements before submitting it to the AER.
- The AER is required to accept the amounts and dates submitted by a TNSP if it is satisfied that the requirements listed in clause 6A.8.2(f) have been met. If not satisfied, the AER is not obliged to accept them. However, it is still required to make a decision where it is satisfied that a trigger event has occurred and the forecast total capital expenditure meets a specified threshold (6A.8.2(e)). Where the AER is not satisfied of the matters in clause 6A.8.2(f), the AER may determine the appropriate amounts and dates.
- The AER is required (under clause 6A.8.2(d)) to make its decision within 30 business days. In view of this tight timeframe, it is essential that a TNSP's application complies with the NER requirements and includes all relevant information. The AER may decide not to accept further information if this would jeopardise its ability to meet the 30-business-day timeframe. It is in the interests of TNSPs to ensure they understand what information an application should contain prior to lodgment.

The type of information that the AER will require to approve an application will depend, to an extent, on the nature and scope of the individual contingent project. Consultation with the AER before preparation of a contingent project application will assist TNSPs to understand the type of information the AER will require for the

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<sup>1</sup> The AER notes that transitional provisions may vary the application of parts of the guideline.

<sup>2</sup> While relevant excerpts from the NER have been included as appendixes to this guideline, they should be considered in the wider context of the National Electricity Law and the NER as a whole.

particular application. The extent of consultation necessary will also depend on the nature and scope of the proposed project.

The process set out in this guideline is designed to assist TNSPs to prepare a revenue determination amendment application that is consistent with the requirements of the NER and which would assist the AER in making its decision. TNSPs are encouraged to consult with AER staff when preparing an application.

## 1.1 Background

A contingent project is a project assessed by the AER as reasonably required to be undertaken, but which is excluded from the *ex ante* capital expenditure allowance in a revenue determination because of uncertainty about its requirement, timing or costs. A revenue determination also identifies associated trigger events. Should the trigger event occur, a TNSP may apply to the AER during the regulatory period to amend the revenue determination to include forecast capital expenditure and incremental operating expenditure for the project.

## 1.2 Process

Under clause 6A.8.2(d), the AER is required to make its decision on any amendments to a revenue determination for the contingent project within 30 business days of receiving an application that complies with the relevant NER provisions. The following table indicates the timing of the assessment process for an application. The AER strongly recommends that TNSPs follow the pre-lodgment processes also outlined in the table.

Event	Timing
Notification of expected contingent project application	As soon as the TNSP is confident that a trigger event will occur
Pre-lodgment consultation	As soon as the TNSP's feasibility studies are underway
The AER provides an indication it is satisfied that a trigger event has occurred or is likely to occur and that the forecast total capital expenditure meets the threshold.	Once the AER has considered information provided by the TNSP that confirms that the trigger event has occurred and that the forecast total capital expenditure meets the threshold.
Conclusion of the pre-lodgment process	Once all preliminary work <sup>3</sup> has been completed and the TNSP considers that it is ready to submit the application

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<sup>3</sup> For example, feasibility studies, regulatory test, environmental reports and approvals.

Lodgment of application	
AER calls for submissions	As soon as is practicable after the AER receives the application
AER decision including any amendment to the revenue determination	Within 30 business days of lodgment

### 1.3 Outline

This guideline highlights key NER processes and requirements to help TNSPs prepare contingent project applications that comply with the NER. Adoption of the procedures set out in this guideline will also assist the AER to assess an application in a timeframe consistent with the NER.

In addition to the introduction, this guideline consists of sections covering the requirements of the NER, the pre-lodgment process, lodgment of the application, public consultation and the AER's assessment. It also includes appendixes reproducing relevant excerpts from the NER.



## **2 Requirements of the NER**

### **2.1 Information requirements**

When the AER receives an application, it establishes whether the application contains enough information to enable it to assess effectively the proposed contingent project under the NER provisions. Information that an application must contain and that the AER will use to determine whether it can assess the application is set out in clause 6A.8.2(b) of the NER.

If any of this information is not provided, the AER may not be able to assess the application and may decide not to proceed with assessing the application.

### **2.2 Trigger event**

The AER is required to determine the trigger events in relation to each contingent project in the revenue determination. In relation to a contingent project application, before considering matters such as the appropriateness of the project and the proposed costs, the AER must be satisfied that the trigger event, identified in the revenue determination, has occurred.

Importantly, the TNSP is required by clause 6A.8.2(b)(3)(i) of the NER to include in its application an explanation that substantiates the occurrence of the trigger event.

### **2.3 Threshold amount**

Contingent projects are only permitted to be identified in the revenue determination if the proposed capital expenditure exceeds the threshold amount of either \$10 million or 5 per cent of the maximum allowed revenue (under clause 6A.8.1(b)(2)(iii)).

The AER must be satisfied that the forecast capital expenditure exceeds this threshold amount before it can determine the relevant amounts and dates.

### **2.4 Expenditure criteria and factors**

Clause 6A.8.2(f) of the NER includes a requirement that the AER must accept the relevant amounts in the application if it is satisfied that the amounts of forecast capital expenditure and incremental operating expenditure reasonably reflect the capital expenditure criteria<sup>4</sup> and the operating expenditure criteria<sup>5</sup>, taking into account the capital expenditure factors<sup>6</sup> and the operating expenditure factors<sup>7</sup>, in the context of the contingent project.

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<sup>4</sup> Clause 6A.6.7(c)(1–3) of the NER.

<sup>5</sup> Clause 6A.6.6(c)(1–3) of the NER.

<sup>6</sup> Clause 6A.6.7(e)(1–10) of the NER.

To be satisfied that the application reasonably reflects the capital expenditure and operating expenditure criteria and factors, the AER must be satisfied that the forecast capital and operating expenditure reasonably reflects<sup>8</sup>:

- efficient costs
- the costs a prudent operator would incur
- a ‘realistic expectation’ of demand forecasts and cost inputs.

The AER considers that, in the context of contingent project applications, to have a ‘realistic expectation’ of demand forecasts and cost inputs, the TNSP must, as far as is practical, have completed and included in its application all option assessments, feasibility studies and any other investment appraisals.

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<sup>7</sup> Clause 6A.6.6(e)(1–10) of the NER.

<sup>8</sup> Clauses 6A.6.6(c)(3) and 6A.6.7(c)(3) of the NER.

## **3 Pre-lodgment process**

### **3.1 Purpose of the pre-lodgment process**

This guideline and the pre-lodgment process are designed to assist TNSPs lodge applications that comply with NER requirements. TNSPs are encouraged to participate in pre-lodgment planning, consultation and associated exchanges of information with the AER before lodging their applications. While this consultation is not part of the statutory assessment process, experience indicates that pre-lodgment consultation is useful to both TNSPs and the AER in satisfying NER requirements.

The pre-lodgment process allows the AER to discuss the mechanics of the assessment process with the TNSP to ensure that the TNSP understands the requirements of the NER and the AER's information requirements, as well as timing and confidentiality issues. For example, while information should generally be submitted in a manner that will allow it to be released to interested parties so that they can understand the proposal, there may be information the TNSP considers is commercially sensitive. The AER can provide guidance on the provision and treatment of information considered by the TNSP to be confidential during pre-lodgment consultation.

The pre-lodgment process also helps the AER to understand the project before an application is lodged, which facilitates the overall assessment process. It also helps the AER to develop a preliminary view of whether the trigger event has occurred and whether the forecast total capital expenditure meets the threshold, which will be particularly useful to TNSPs when it is uncertain that a trigger event has occurred.

### **3.2 Pre-lodgment consultation**

The AER recommends that the TNSP notify the AER of its intention to lodge a contingent project application as soon as it is confident that the trigger event is likely to occur and then to engage in pre-lodgment consultation. The AER would find it helpful if the TNSP provided a presentation on the project and proposed application early in the pre-lodgment consultation process.

The TNSP should outline its reasons for considering that the trigger event has occurred or will occur. AER staff will then be able to indicate whether the AER considers a trigger event has occurred. This will help inform the TNSP's decisions concerning the proposed application—for example, the TNSP might then decide to proceed with (or continue) feasibility studies, environmental assessments and approvals and development of project designs.

The TNSP should develop feasible options and associated investment appraisals that address the need for the project either before or during the pre-lodgment consultation. Where appropriate, these options should include both demand management and network alternatives. The TNSP should also provide estimates of relevant costs.

The AER expects the TNSP will discuss with AER staff the level of public consultation the TNSP has gone through or that the TNSP intends to go through. This will provide the TNSP an opportunity to alert AER staff to any significant issues which may have arisen during the TNSP's public consultation. Given the 30-business-day timeframe in which the AER must make a decision following the submission of a contingent project application, it will be in the TNSP's interest to raise any issues arising from the TNSP's public consultation prior to lodging an application.

If the AER becomes aware of significant issues through the AER's public consultation process after submission of an application, the AER may not be in a position to satisfy itself that the capital and operating expenditure criteria are reasonably reflected, and accordingly the AER may decide not to accept the TNSP's costings.

Discussion of significant issues in the pre-lodgment process, including issues raised during any public consultation undertaken by the TNSP, will assist the AER in conducting its own public consultation when the TNSP submits an application. This will also assist the AER to determine whether the capital and operating expenditure criteria are reasonably reflected.

The AER expects that the pre-lodgment consultation process would also include developing an events timetable, such as when the TNSP expects to:

- complete feasibility studies
- complete the investment appraisal
- lodge the application.

### **3.3 Conclusion of the pre-lodgment process**

To assist the TNSP with its obligations, the AER strongly recommends that at the end of the pre-lodgment consultation process, and prior to lodging the application, the TNSP and the AER engage in a final meeting. The purpose of the meeting will be for the TNSP to obtain a final understanding of any additional information which may be required in the application.

By completing necessary studies and costings before this final meeting, the TNSP will benefit by being able to provide the AER with all the information and resources it considers should be included in the application. Ideally, the TNSP will be able to inform the AER of the results of its costings, feasibility studies (including its recommended options), the regulatory test and any other processes at the final meeting. Based on the information provided, the AER may then be able to advise the TNSP whether it considers that the TNSP's application is likely to satisfy the information requirements of the NER.

At the end of the pre-lodgment process, the TNSP should have a full understanding of the information the AER requires in the application and should be able to submit an application that complies with NER requirements. This will help ensure the timely assessment of the TNSP's application.

## 4 TNSP lodges application with the AER

The AER requires that a contingent project application be made as soon as is practicable after the relevant trigger event has occurred. However, the exception to this is that an application cannot be made within the 90-business-day period before the end of a regulatory year.

### 4.1 Determining whether applications comply

An application must be made in accordance with clause 6A.8.2(b). The AER will be unable to assess an application that does not comply with the AER. If an application does not comply with the information requirements of clause 6A.8.2(b), the AER may decide not to proceed with assessing the application.

Upon receipt of an application, the AER determines whether it complies with the requirements of clause 6A.8.2(b) and whether it contains enough information to enable the AER to assess it effectively.

The AER will then inform the TNSP either that:

- it has accepted that the application complies with clause 6A.8.2(b) and will assess the application, or that
- it does not consider that the application complies with clause 6A.8.2(b) and that it will not assess the application.

To lodge an application that complies with clause 6A.8.2(b) and contains enough information for the AER to assess the application, the TNSP should generally have completed the regulatory test, all feasibility studies, options assessments and costings of the project.

Completion of these processes will generally be necessary to provide a 'realistic expectation' of demand forecasts and cost inputs. The AER expects that the TNSP will include the best available supporting information in its application, which would generally include:

- final regulatory test assessments
- tender submissions
- contracts
- other investment appraisals.

The AER does not require the TNSP to duplicate studies and reports it may be required to complete in other contexts. However, if these studies and reports are necessary to lodge a compliant contingent project application, the TNSP will need to make them available to the AER as part of its application.

In some circumstances, preliminary information, as opposed to final information, may be sufficient for the AER to determine whether forecasts reasonably reflect a realistic expectation of forecasts. However, the AER will only be prepared to assess an application based on the use of preliminary information where:

- it would be impractical for the TNSPs to supply final versions, and
- the AER can be confident that the information provided will be sufficient for the AER to make a decision which closely reflects the decision it would likely make if it were to have access to final information.

It is in the TNSP's interests to undertake the pre-consultation processes outlined in this guideline to minimise the risk of the AER declining to assess its application.

## **4.2 Treatment of confidential information**

The AER recognises that information provided during the application process may be commercially sensitive.

Generally the treatment of confidential material should be discussed in the pre-lodgment consultation period so that any issues surrounding disclosure of information can be settled before the assessment begins.

TNSPs will need to outline in their applications their reasons for considering information to be confidential. Where information is confidential, the AER requests that TNSPs provide their documents as follows:

- in both confidential and public versions
- in the confidential version, commercially sensitive pieces of information should be marked 'Confidential' throughout the document to ensure confidentiality is maintained
- in the public version, spaces marked 'commercial-in-confidence' at the appropriate places to show that confidential information has been provided to the AER but has been removed from the public version.

All submissions, except for those parts for which confidentiality is claimed, will be treated as public documents and placed on the AER website. To assist with placing this material on the web, submissions should be in electronic as well as hard copy.

## **4.3 Supporting submission**

The AER expects that TNSPs will provide sufficient information in their applications (or supporting submissions) to explain the background, rationale and framework of their proposals. This will assist the AER and interested parties to understand their applications. The AER particularly requires sufficient information to enable it to decide whether matters set out in clause 6A.8.2(f) of the NER have been satisfactorily addressed.

## **5 Public consultation**

### **5.1 Submissions**

The AER will publish an application on its website as soon as practicable after it determines that the application complies with clause 6A.8.2(b) of the NER. Publication does not indicate that the AER is endorsing the amounts the TNSP is seeking or the likely commencement and completion dates contained within the application.

The NER require the AER to call for written submissions from interested parties on the TNSP's application. The AER will inform interested parties and issue a general public notice calling for submissions.

To enable the AER to make the decision within the statutory timeframe, all submissions must be received by the due date. The AER may decide not to consider submissions received after the due date.

The AER prefers that all submissions be publicly available, to facilitate an informed and transparent consultative process. Therefore, submissions will be treated as public documents unless otherwise requested. A party who wishes to make a confidential submission will need to do so according to the procedure set out in paragraph 4.2 above.

## 6 AER assessment

The AER is required to assess the application and make its decision within 30 business days. The 30-business-day period begins after the AER receives an application that complies with clause 6A.8.2(b). If the application does not comply with this clause, the AER will not proceed with assessing the application and the 30-business-day period will not begin.

The AER's application assessment has two threshold issues. The AER may proceed with its assessment of an application only if it is satisfied that<sup>9</sup>:

- the trigger event has occurred
- the forecast capital expenditure required for the project exceeds the threshold amount outlined at clause 6A.8.1(b)(2)(iii).

Once satisfied of these matters, to complete the assessment the AER must, among other things<sup>10</sup>:

- determine the amount of additional revenue required likely to be required and the likely commencement and completion dates for the project
- make amendments to the revenue determination.

### 6.1 The trigger event

The AER may require expert assistance to help assess whether the trigger event has occurred. The extent and nature of such assistance will depend on the complexity of the network needs and the nature of the trigger event. These factors will also dictate what supporting information the AER will require from the TNSP for its assessment.

The AER anticipates that during the pre-lodgment consultation process TNSPs will generally request and receive an indication of the AER view on whether a trigger event has occurred or is likely to occur.

### 6.2 Threshold amount

The AER must be satisfied that the forecast of the total capital expenditure for the contingent project meets the threshold amount—\$10 million or 5 per cent of the maximum allowed revenue—referred to in clause 6A.8.1(b)(2)(iii).

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<sup>9</sup> Clause 6A.8.2(e) of the NER.

<sup>10</sup> Clause 6A.8.2(e)(1) of the NER.



### **6.3 Additional revenue and relevant dates**

If the AER is satisfied that the trigger event has occurred and the threshold amount has been reached, it is required by clause 6A.8.2(e) of the NER to determine:

- the amount of capital and incremental operating expenditure for each remaining regulatory year, which the AER considers is reasonably necessary to undertake the project
- the total expenditure which the AER considers is reasonably necessary to undertake the project
- the likely commencement and completion dates for the contingent project
- the incremental revenue likely to be required in each remaining regulatory year.

The AER may obtain an independent evaluation of the contingent project by an appropriate expert to help inform its assessment. This assessment will consider the TNSP's justification for selecting the proposed option.

During the assessment process, the AER will consult with interested parties. The AER will call for submissions on the application and will make relevant public documents available on its website. The AER may also liaise directly with interested parties.

The AER is required by clause 6A.8.2(f) of the NER to accept the relevant amounts and dates the TNSP includes in its application if the AER is satisfied that the forecast total capital expenditure for the contingent project exceeds the threshold (under clause 6A.8.1(b)(2)(iii)) and reflects the capital expenditure and operating expenditure criteria, taking into account the capital expenditure and operating expenditure factors in the context of the contingent project. The AER must also be satisfied that estimates of incremental revenue and dates are reasonable.

If the AER is not satisfied of the matters in clause 6A.8.2(f), it is not bound to accept the relevant amounts and dates contained in the TNSP's proposal. However, it is still bound to make a decision that meets the requirements set out in clause 6A.8.2(e). This means the AER is required to include in its decision the values that, in its view, would satisfy these requirements.

In making the decision the AER is required to consider the matters set out in clause 6A.8.2(g).

### **6.4 Amendments to the revenue determination**

Amendments to a revenue determination take effect from the beginning of the next regulatory year following the AER's determination.

The revenue determination can be amended only to the extent necessary to:

- accommodate the amount of capital expenditure and incremental operating expenditure the AER considers is reasonably required to undertake the contingent project
- reflect the effect of any resultant increase in forecast capital expenditure and operating expenditure on the maximum allowed revenue and the X-factor for each regulatory year in the remainder of the regulatory control period.<sup>11</sup>

When the AER makes its next revenue determination for the TNSP, it will adjust the regulatory asset base to include the capital expenditure required for the contingent project. If actual expenditure is not available, the AER will increase the regulatory asset base by the amount of estimated capital expenditure it has approved.<sup>12</sup>

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<sup>11</sup> Clause 6A.8.2(h) of the NER.

<sup>12</sup> Schedule 6A.2.1(f)(1) and (2).

## Appendix A – Clause 6A.8.2 of the NER

### 6A.8.2 Amendment of revenue determination for contingent project

- (a) Subject to paragraph (b), a *Transmission Network Service Provider* may, during a *regulatory control period*, apply to the AER to amend a *revenue determination* that applies to that provider where a *trigger event* for a contingent project in relation to that *revenue determination* has occurred.
- (b) An application referred to in paragraph (a):
  - (1) must not be made within 90 *business days* prior to the end of a *regulatory year*;
  - (2) subject to subparagraph (1), must be made as soon as practicable after the occurrence of the *trigger event*;
  - (3) must contain the following information:
    - (i) an explanation that substantiates the occurrence of the *trigger event*;
    - (ii) a forecast of the total capital expenditure for the *contingent project*;
    - (iii) a forecast of the capital and incremental operating expenditure, for each remaining *regulatory year* which the *Transmission Network Service Provider* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (iv) how 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);
    - (v) the intended date for commencing the *contingent project* (which must be during the *regulatory control period*);
    - (vi) the anticipated date for completing the *contingent project* (which may be after the end of the *regulatory control period*); and
    - (vii) an estimate of the incremental revenue which the *Transmission Network Service Provider* considers is likely to be required to be earned in each remaining *regulatory year* of the *regulatory control period* as a result of the contingent project being undertaken as described in subparagraph (iii); and

- (4) the estimate referred to in subparagraph (3)(vii) must be calculated:
- (i) on the basis of the capital expenditure referred to in subparagraph (3)(iii);
  - (ii) on the basis of the rate of return for that *Transmission Network Service Provider* for the *regulatory control period* as determined pursuant to clause 6A.6.2;
  - (iii) consistently with the manner in which depreciation is calculated under clause 6A.6.3;
  - (iv) to include the incremental operating expenditure referred to in subparagraph (3)(iii); and
  - (v) in accordance with the requirements for roll forward in the *roll-forward model* and revenue calculation in the *post-tax revenue model*.
- (c) As soon as practicable after its receipt of an application made in accordance with paragraphs (a) and (b), the *AER* must *publish* the application, together with an invitation for written submissions on the application.
- (d) The *AER* must consider any written submissions made under paragraph (c) and must make its decision on the application within *30 business days* of its receipt of that application. In doing so the *AER* may also take into account such other information as it considers appropriate, including any analysis (such as benchmarking) that is undertaken by it for that purpose.
- (e) If the *AER* is satisfied that the *trigger event* has occurred, and that 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), it must:
- (1) determine:
    - (i) the amount of capital and incremental operating expenditure, for each remaining *regulatory year* which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (ii) the total capital expenditure which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (iii) the likely commencement and completion dates for the *contingent project*; and

- (iv) the incremental revenue which is likely to be required by the *Transmission Network Service Provider* in each remaining *regulatory year* as a result of the *contingent project* being undertaken as described in subparagraphs (i) and (ii) ...
- (2) calculate the estimate referred to in subparagraph (1)(iv):
  - (i) on the basis of the capital expenditure referred to in subparagraph (1)(i)
  - (ii) to include the incremental operating expenditure referred to in subparagraph (1)(i); and
  - (iii) otherwise in accordance with paragraph (b)(4); and
- (3) amend the *revenue determination* in accordance with paragraph (h).
- (f) In making the determinations referred to in paragraph (e)(1), the *AER* must accept the relevant amounts and dates, contained in the *Transmission Network Service Provider's* application, as referred to in paragraphs (b)(3)(ii)–(vii), if the *AER* is satisfied that:
  - (1) 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);
  - (2) the amounts of forecast capital expenditure and incremental operating expenditure reasonably reflect the *capital expenditure criteria* and the *operating expenditure criteria*, taking into account the *capital expenditure factors* and the *operating expenditure factors* respectively, in the context of the *contingent project*;
  - (3) the estimates of incremental revenue are reasonable; and
  - (4) the dates are reasonable.
- (g) In making the determinations referred to in paragraphs (e)(1) and (f), the *AER* must take into account:
  - (1) the information included in or accompanying the application;
  - (2) submissions received in the course of consulting on the application;
  - (3) such analysis as is undertaken by or for the *AER*;
  - (4) the expenditure that would be incurred in respect of a *contingent project* by an efficient and prudent operator in the circumstances of the *Transmission Network Service Provider*;

- (5) the actual and expected capital expenditure of the *Transmission Network Service Provider* for contingent projects during any preceding *regulatory control periods*;
  - (6) the extent to which the forecast capital expenditure for the *contingent project* is referable to arrangements with a person other than the *Transmission Network Service Provider* that, in the opinion of the *AER*, do not reflect arm's length terms;
  - (7) the relative prices of operating and capital inputs in relation to the *contingent project*;
  - (8) efficient substitution possibilities between operating and capital expenditure in relation to the *contingent project*; and
  - (9) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the *service target performance incentive scheme* that is to apply to the provider in respect of the *regulatory control period*.
- (h) Amendments to a *revenue determination* referred to in paragraph (e)(3) must only vary the determination to the extent necessary:
- (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of capital expenditure determined under paragraph (e)(1)(i) (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6A.6.7(c));
  - (2) to adjust the forecast operating expenditure for that *regulatory control period* to accommodate the amount of incremental operating expenditure determined under paragraph (e)(1)(i) (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6A.6.6(c));
  - (3) to reflect the effect of any resultant increase in forecast capital and operating expenditure on:
    - (i) the *maximum allowed revenue* for each regulatory year in the remainder of the *regulatory control period*; and
    - (ii) the X factor for each of the remaining *regulatory years* of the regulatory control period
- (i) Amendments to a *revenue determination* take effect from the commencement of the next regulatory year of the *regulatory control period*.

## **Appendix B – Capital expenditure criteria and factors; and the operating expenditure criteria and factors**

### *‘Capital Expenditure Criteria’*

- (1) the efficient costs of achieving the *capital expenditure objectives*;
- (2) the costs that a prudent operator in the circumstances of the relevant *Transmission Network Service Provider* would require to achieve the *capital expenditure objectives*; and
- (3) a realistic expectation of the demand forecast and cost inputs required to achieve the *capital expenditure objectives*.

### *‘Capital Expenditure Factors’*

- (1) the information included in or accompanying the *Revenue Proposal*;
- (2) submissions received in the course of consulting on the *Revenue Proposal*;
- (3) such analysis as is undertaken by or for the *AER* and is *published* prior to or as part of the draft decision of the *AER* on the *Revenue Proposal* under rule 6A.12 or the final decision of the *AER* on the *Revenue Proposal* under rule 6A.13 (as the case may be);
- (4) benchmark capital expenditure that would be incurred by an efficient *Transmission Network Service Provider* over the *regulatory control period*;
- (5) the actual and expected capital expenditure of the *Transmission Network Service Provider* during any preceding *regulatory control periods*;
- (6) the relative prices of operating and capital inputs;
- (7) the substitution possibilities between operating and capital expenditure;
- (8) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the applicable *service target performance incentive scheme* in respect of the *regulatory control period*;
- (9) the extent to which the forecast of required capital expenditure of the *Transmission Network Service Provider* is referable to arrangements

with a person other than the provider that, in the opinion of the AER, do not reflect arm's length terms; and

- (10) whether the forecast of required capital expenditure includes amounts relating to a project that should more appropriately be included as a *contingent project* under clause 6A.8.1(b).

*'Operating Expenditure Criteria'*

- (1) the efficient costs of achieving the *operating expenditure objectives*;
- (2) the costs that a prudent operator in the circumstances of the relevant *Transmission Network Service Provider* would require to achieve the *operating expenditure objectives*; and
- (3) a realistic expectation of the demand forecast and cost inputs required to achieve the *operating expenditure objectives*.

*'Operating Expenditure Factors'*

- (1) the information included in or accompanying the *Revenue Proposal*;
- (2) submissions received in the course of consulting on the *Revenue Proposal*;
- (3) such analysis as is undertaken by or for the AER and is *published* prior to or as part of the draft decision of the AER on the *Revenue Proposal* under rule 6A.12 or the final decision of the AER on the *Revenue Proposal* under rule 6A.13 (as the case may be);
- (4) benchmark operating expenditure that would be incurred by an efficient *Transmission Network Service Provider* over the *regulatory control period*;
- (5) the actual and expected operating expenditure of the provider during any preceding *regulatory control periods*;
- (6) the relative prices of operating and capital inputs;
- (7) the substitution possibilities between operating and capital expenditure;
- (8) whether the total labour costs included in the capital and operating expenditure forecasts for the *regulatory control period* are consistent with the incentives provided by the applicable *service target performance incentive scheme* in respect of the *regulatory control period*;
- (9) the extent to which the forecast of required operating expenditure of the *Transmission Network Service Provider* is referable to



arrangements with a person other than the provider that, in the opinion of the *AER*, do not reflect arm's length terms; and

- (10) whether the forecast of required operating expenditure includes amounts relating to a project that should more appropriately be included as a *contingent project* under clause 6A.8.1(b).