

Updated national energy objectives – harmonising rule changes

Response to AEMC Consultation Paper

17 August 2023

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Key messages

- » Networks **strongly support the introduction of an emissions reduction component into the national energy objectives.**
- » However, **consequential rule changes are needed to ensure that the energy market bodies are able to fully reflect the policy intent of the legislative reform** when making regulatory decisions.
- » Without these consequential rule changes, there are likely to be some important decisions related to network expenditure, investment and planning where the impact of the changes to the national energy objectives could be unintentionally muted.
- » **Decisions made under amended (harmonised) rules will best reflect the expressed policy intent of the emissions reform, and provide certainty and transparency** for networks, consumers, and energy market bodies.
- » To ensure a streamlined and timely update of AER guidelines, **networks support the AER undertaking an omnibus update process for changes to guidelines that are directly consequential.** Material or substantive changes to guidelines should be undertaken via individual reviews and be pursued in a timely manner given the importance of this reform.

1. Overview

Energy Networks Australia (**ENA**) appreciates the opportunity to respond to the Australian Energy Market Commission's (**AEMC or the Commission**) Consultation Paper on the Energy Senior Official's rule change requests seeking harmonisation of the National Electricity Rules (**NER**) and National Gas Rules (**NGR**) with the updated national energy objectives (**Consultation Paper**).¹

ENA is the national industry body representing Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia.

Through the Department of Climate Change, Energy, the Environment and Water's prior consultation on the proposed legislative reform, ENA strongly supported the introduction of an emissions reduction component into the national energy objectives. Network service providers (**NSPs**) are essential partners in supporting government commitments to achieve a decarbonised, modern, and reliable grid, and will work closely with market bodies, consumers, and stakeholders to implement this important reform.

As decided in the *Statutes Amendment (National Energy Laws) (Emissions Reduction Objectives) Bill 2023 (Bill)*, incorporating the emissions reduction component into the existing 'economic efficiency' framework is an effective way of integrating the concept into the decision making of energy market bodies.

However, consequential rule changes are needed to ensure that the market bodies are able to fully reflect the policy intent of the legislative reform when making regulatory decisions. Without these rule

¹ AEMC, Updated national energy objectives harmonising rule changes, Consultation paper, 20 July 2023.

changes, there are likely to be some important decisions related to network expenditure, investment and planning where the impact of the changes to the national energy objectives could be unintentionally muted.

ENA therefore strongly supports harmonising the NER and NGR with the updated national energy objectives. Decisions made under these amended rules will then best reflect the expressed policy intent of the emissions reform, and provide certainty and transparency for networks, consumers, and energy market bodies.

2. Background

On 14 June 2023, the Bill was introduced into the South Australian Parliament, and provides for amendment to the national electricity objective (**NEO**) and the national gas objective (**NGO**) (referred to collectively as the 'national energy objectives')², to incorporate the following reference to emissions reduction targets as an additional parameter of the long-term consumer interest:

the achievement of targets set by a participating jurisdiction—

(i) for reducing Australia's greenhouse gas emissions; or

(ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

On 3 July 2023, Energy Senior Officials on behalf of the Ministerial Council on Energy (as constituted by the Energy Ministers Subgroup) submitted two rule change requests to the AEMC that seek to harmonise the NER and NGR with the intent of the legislative changes. The requests seek to harmonise the rules:

- » for network and pipeline expenditure proposals, and
- » for network investment planning frameworks and the Australian Energy Regulator's (**AER**) revisions to its regulatory guidelines and instruments.

NSPs strongly support the introduction of an emissions reduction component into the national energy objectives, and, to reflect the policy intent of this reform, also strongly support harmonising the rules with the updated NEO.

3. ENA recommendations

Table 1 on the following page provides a consolidated summary of the recommended amendments proposed by ENA to harmonise the NER and NGR with the updated national energy objectives.

² The Bill also provides for identical amendment to the national energy retail objective under the National Energy Retail Law.

Table 1: ENA recommendations

#	Recommendation
1	To align the electricity expenditure rules with the amended NEO, ENA recommends updates to clauses 6.5.6(a), 6.5.7(a), 6A.6.6(a) and 6A.6.7(a) of the NER.
2	To align the expenditure rules for gas with the amended NGO, ENA recommends updates to rules 79(2), 79(3) and 91(1) of the NGR.
3	To ensure that changes to the expenditure rules also apply to revenue proposals that are submitted prior to 1 February 2024, ENA recommends the development of specific expenditure related transitional arrangements.
4	To ensure that the achievement of emissions reduction targets is included as a new class of market benefit in the ISP and RIT frameworks, ENA recommends updates to clauses 5.15A.2(b)(4), 5.17.1(c)(4) and 5.22.10(c)(1) of the NER.
5	To ensure alignment between the amended NEO and the ISP power system needs, ENA recommends updates to clause 5.22.3(b) of the NER.
6	To ensure that references to the long term interests of consumers clarify that the relevant objective is the NEO, ENA recommends updates to clauses 5.22.2 and 5.22.7(d)(2) of the NER.
7	To ensure that the general principles for RITs incorporate consideration of emissions reduction and expand the categories of relevant beneficiaries for the purposes of assessing economic benefits, ENA recommends updates to clauses 5.15A.1(c), 5.17.1(b), 5.15A.2(b)(12), 5.17.1(c)(9)(v), 5.15A.2(b)(9) and 5.17.1(c)(8) of the NER. For consistency purposes, we also recommend updates to clause 5.12.1(b) and clause 6.6.3(c) of the NER.
8	To ensure that any RIT projects that are subject to the updated NEO under the amendments to the NEL are also subject to the amended NER, ENA recommends the development of specific RIT related transitional arrangements.
9	To ensure a streamlined and timely update of AER guidelines, ENA supports the AER undertaking an omnibus update process for changes to guidelines that are directly consequential only. Minor and administrative changes should be referenced in this omnibus review for completeness and stakeholder transparency. Material or substantive changes to guidelines should be undertaken via individual reviews and be pursued in a timely manner given the importance of this reform.

4. Harmonising the rules for network/pipeline expenditure proposals and assessment

The existing capital and operating expenditure guidance in the electricity and gas rules is prescriptive, and largely replicates the core of the existing ‘old’ national electricity and gas objectives, *without explicitly referencing the NEO or NGO*:

- » The electricity distribution capital expenditure objectives in the NER are focused on meeting demand, complying with regulatory obligations and maintaining *safety, quality, reliability and security of supply* of standard control services – they do not refer to the achievement of emissions reduction targets (similar clauses also exist for prescribed transmission services in the NER). Thus, the capital expenditure criteria and objectives for electricity transmission and distribution essentially replicate the core of the existing NEO.
- » The NGR is similarly focused on identifying capital expenditure that either has a positive economic value or is necessary to maintain safety, service integrity or the service provider’s ability to meet demand (or is the subject of a regulatory obligation) for gas distribution.
- » Equivalent issues arise in respect of the operating expenditure rules in both the NER and the NGR.

This means that, without changes to the rules, capital and operating expenditure directed at meeting emissions reduction may not be able to satisfy the rule requirements, unless that expenditure is, for example, also required to meet demand. Clarification through consequential rule amendments would remove the risk of this unanticipated outcome.

4.1 Scope of required amendments to expenditure rules

Aligning the expenditure rules with the amended national energy objectives will ensure that the new emissions reduction objective is factored into the AER’s assessment of expenditure proposals. In particular, it will ensure that the AER is able to approve prudent and efficient expenditure required to support the achievement of emissions reduction targets in those circumstances where the expenditure is deemed not necessary to meet any of the current expenditure objectives. It will also allow the AER to consider the benefits of emissions reduction when considering projects that may meet multiple limbs of the expenditure objectives, including the emissions reduction objective.

Decisions made under these amended rules will then best reflect the expressed policy intent of the emissions reform, and provide certainty and transparency for networks, consumers, and energy market bodies.

4.1.1 Amendments to the network expenditure provisions of the NER

ENA supports changes to clauses 6.5.6(a), 6.5.7(a), 6A.6.6(a) and 6A.6.7(a) of the NER to allow emissions reduction to be considered in electricity distribution network service provider (**DN**SP) and transmission network service provider (**T**NSP) capital and operating expenditure proposals.

In **Appendix A** we have proposed amendments that are intended to align with the way in which emissions reduction targets have been reflected in the NEO in the Bill. An additional expenditure objective has been added, referencing the achievement of emissions reductions targets, including targets set out in the AEMC’s targets statement.

Relevant targets for the purposes of this new expenditure objective are not limited to those in the targets statement, in line with the clear intent of the Bill that the targets statement set out the minimum set of relevant targets (i.e., the targets statement is non-exhaustive).

See, by way of example, the provisions inserted into the National Electricity Law (**NEL**):³

In having regard to the national electricity objective under this Law, the Regulations or the Rules with respect to the matters mentioned in section 7(c), a person or body must consider, as a minimum, the targets stated in the targets statement.

If the proposed amendments to subclause (a) of the relevant provisions (as outlined in **Appendix A**) are adopted, then no additional amendments are required to clauses 6.5.6, 6.5.7, 6A.6.6 and 6A.6.7 of the NER, including to subclause (c) of those provisions.

Subclause (c) of these provisions (related to the expenditure criteria) provides that the AER can only accept a DNSP or TNSP's forecast capital or operating expenditure if it is satisfied that the forecast reasonably reflects the efficient costs of achieving the 'capital expenditure objectives' or 'operating expenditure objectives' (as applicable), the costs that a prudent operator would require to achieve those objectives, and a realistic expectation of the demand forecast and cost inputs required.

It is our understanding that the changes to (a) would automatically flow to (c). This is because the AER is required under (c) to assess the 'capital expenditure objectives' or 'operating expenditure objectives' (as applicable), which would include the emissions reduction objective to be reflected in the NEO.

Further, the current drafting of subclause (c) of those provisions does not refer to any component of the existing NEO (as only the expenditure objectives as a whole are referred to). If amendments to (c) were made to insert specific reference to the emissions reduction objective of the NEO, this would be inconsistent with how each other component of the NEO is treated under the expenditure provisions (contrary to the policy intention behind the legislative change). In this regard, the recommended changes to subclause (a) as proposed by Energy Senior Officials ensure that the emissions reduction component of the NEO is considered in network expenditure proposals.

Moreover, amending subclause (c) of the network expenditure provisions to include reference to the emissions reductions component of the NEO creates a risk that some expenditure that is currently justifiable could be rejected. The expenditure criteria under subclause (c) of the network expenditure provisions are each mandatory criteria (unlike the expenditure objectives). If the AER is not satisfied that proposed expenditure reasonably reflects all of the expenditure criteria under subclause (c), then it must not accept the forecast proposal.⁴ It is conceivable that some types of forecast expenditure may satisfy the existing expenditure criteria but are not strictly required to achieve emissions reductions targets. If (c) is amended to include reference to the emissions reduction objective, the AER would have to refuse the forecast proposal in such a circumstance.

³ Part 2 of the Bill inserting section 32A of the NEL.

⁴ Clauses 6.5.6(d), 6.5.7(d), 6A.6.6(d) and 6A.6.7(d) of the NER.

Box 1: ENA recommendation 1

To align the electricity expenditure rules with the amended NEO, ENA recommends updates to clauses 6.5.6(a), 6.5.7(a), 6A.6.6(a) and 6A.6.7(a) of the NER (with proposed drafting included in **Appendix A** of this submission).

4.1.2 Amendments to the pipeline expenditure provisions of the NGR

ENA supports changes to rules 79(2), 79(3) and 91(1) of the NGR to allow emissions reduction to be considered in pipeline capital and operating expenditure proposals, and we have proposed drafting in **Appendix A** to give effect to this.

Similar to the electricity expenditure rules, approval of forecast expenditure for gas businesses is largely governed by specific rules in the NGR, and these need to be amended to more closely align with the new NGO.

Rule 79(2) of the NGR provides that capital expenditure is justified if it either has a positive economic value or is necessary to maintain safety, service integrity or the service provider's ability to meet demand (or is the subject of a regulatory obligation). These objectives reflect the existing NGO but do not *reference* the NGO, meaning the updated NGO will not automatically flow through to these provisions.

Therefore, Rule 79(2) should be amended to include that capital expenditure is justified where it is necessary to achieve emissions reduction targets. As with the amendment to the electricity expenditure objectives, the relevant targets will include (but not be limited to) those in the AEMC's targets statement.

Rule 79(3) relates to the determination of whether the overall economic value of capital expenditure is positive (such as to justify the capital expenditure under rule 79(2)). In deciding whether the overall economic value of capital expenditure is positive, consideration is only to be given to "*economic value directly accruing to the service provider, gas producers, users and end users*". The achievement of emissions reduction targets has the potential to result in economic value to a broader range of beneficiaries than those currently identified in subrule (3), including to the Australian public as a whole (some of whom may not produce or use natural gas). This implies that where pipeline expenditure is directed at the achievement of emissions reductions targets, its economic value may accrue to a broader set of stakeholders than those currently identified.

Therefore, to permit a complete assessment and consideration of the "economic value" of such expenditure, we support broadening the set of relevant beneficiaries in rule 79(3). This amendment would then allow the AER to consider the economic value of emissions reduction and to weight this in its assessment of the costs and benefits in expenditure proposals to ensure the most efficient way of meeting the NGO.

Rule 91(1) of the NGR concerns pipeline operating expenditure and provides that operating expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of delivering pipeline services. For the same reasons as identified above, this subrule should be amended to clarify that operating expenditure may also be incurred by a prudent service provider acting efficiently to support the achievement of emissions reduction targets. Such an amendment would therefore allow a service operator and the AER to factor the new emissions reduction objective into any operating expenditure proposals.

It is our understanding that an amendment to rule 79(2) will automatically flow to rule 79(1), which requires that conforming capital expenditure be justifiable on a ground stated in subrule (2). Accordingly, no additional amendment is required to rule 79(1). Moreover, adding an additional criterion to rule 79(1) is likely to impose a further constraint on the AER's ability to approve pipeline capital expenditure. Similar to the potential amendment to subclause (c) of the electricity network expenditure provisions (outlined in Section 4.1.1), this would create a risk that some expenditure that is currently justifiable could be rejected (i.e. if such expenditure, although prudent and efficient and required to operate the gas network, is not linked to any emissions reduction objective).

Box 2: ENA recommendation 2

To align the expenditure rules for gas with the amended NGO, ENA recommends updates to rules 79(2), 79(3) and 91(1) of the NGR (with proposed drafting included in **Appendix A** of this submission).

4.1.3 Transitional provisions

ENA supports the adoption of specific expenditure related transitional arrangements to avoid a misalignment between the updated national energy objectives and the rules in regulatory reset processes that are either in train or set to commence before the final rule determination is made.

The AEMC is currently proposing to publish its final determination regarding the proposed rule changes on 1 February 2024. Accordingly, transitional arrangements (as proposed in **Appendix B**) should be put in place to ensure that any changes to the expenditure rules also apply to the AER's assessment of any revenue proposals that are submitted prior to 1 February 2024, as these processes will also be subject to the amended national energy objectives (as per the transitional provisions included in the Bill).

This inclusion will ensure that the AER is able to approve prudent and efficient expenditure required to support the achievement of emissions reduction targets over the 2024-29 (for the New South Wales, Australian Capital Territory, Northern Territory and Tasmanian DNSPs, and Tasmanian TNSP) and 2025-30 (for the Queensland and South Australian DNSPs) regulatory control periods – particularly in situations where expenditure will support the achievement of emissions reduction targets, but the AER is not satisfied that it is strictly required to meet or manage expected demand, comply with regulatory obligations or to maintain safety, quality, reliability or security of supply (the current expenditure objectives). Without the transitionals, these processes will be subject to the 'old' (i.e., current) expenditure rules, but have the amended NEO apply to them, creating a misalignment.

Allowing the new rules to apply will give the AER broader scope to approve this type of expenditure and ensure that the AER is able to integrate the changes under the Bill into these final regulatory determinations, as reflected in the policy intent behind the changes to the energy objectives and the drafting of the Bill itself.

In addition to a transitional rule providing for the application of the new expenditure rules to reset processes in train at the time of the rule changes, we also recommend making provision for amendments to expenditure forecasts where this is necessary to align with the new rules. This is to ensure that businesses have an opportunity to update their forecasts (and/or the justifications for those forecasts) so that they align with the amended criteria that will be applied by the AER.

Box 3: ENA recommendation 3

To ensure that changes to the expenditure rules also apply to revenue proposals that are submitted prior to 1 February 2024, ENA recommends the development of specific expenditure related transitional arrangements (with proposed drafting included in **Appendix B** of this submission).

4.1.4 Potential alternative proposals

The consideration of emissions reductions on a case by case basis by the AER, as raised in the Consultation Paper, is not a workable alternative to a rule change.

The AER will be constrained in its ability to consider emissions reduction objectives on a case by case basis. The current expenditure rules are prescriptive and do not provide the AER with discretion as to what it can consider in assessing expenditure proposals. The AER is required to accept expenditure proposals where the relevant expenditure criteria (with the expenditure criteria linking to the expenditure objectives) are satisfied and must not accept a proposal where it is not satisfied. For example, if a forecast includes additional expenditure solely directed at emissions reduction, this is likely to mean that it is higher than what would be prudent and efficient to meet the current expenditure criteria – in which case (absent a rule change) the AER must not accept it. There is no residual discretion under the current rules to consider emissions reduction objectives on a case-by-case basis.

In addition, the proposed rule changes (as outlined in the sections above) promote certainty and transparency for network and pipeline service providers and their stakeholders, including consumers, when preparing revenue proposals as they specify that the new emissions reduction objective must be considered in any expenditure proposal, and relatedly require the AER to assess any expenditure proposal relating to emissions reduction under the expenditure rules. This transparency and certainty would not be provided by the alternative case by case approach.

5. Harmonising the electricity network planning and investment framework

As identified in the AEMC's Consultation Paper, there is a need to harmonise the network investment and planning frameworks in the NER with the new emissions component of the energy objectives.

5.1 Scope of required amendments to network planning and investment rules

ENA supports harmonising the electricity transmission and distribution planning and investment framework with the updated NEO to ensure the components of the objective, including emissions reduction, are transparently and consistently applied to the rules, and balanced by decision-makers.

5.1.1 Class of market benefits

ENA supports amendments to Chapter 5 of the NER to ensure that emissions reduction is included as a class of market benefit in the Integrated System Plan (**ISP**) and Regulatory Investment Test (**RIT**) frameworks.

In preparing an ISP, the Australian Energy Market Operator (**AEMO**) is required to consider specified classes of market benefits that could be delivered by the projects included in the ISP that together address power system needs. The current classes of market benefits reflect the existing components of the NEO as they largely relate to price, quality, safety, reliability and security. Similar classes of market benefits must be considered as part of a RIT for transmission (**RIT-T**) or distribution (**RIT-D**).

The Second Reading Speech for the Bill makes clear that the legislative intent is for the reduction of greenhouse gas emissions to be “*a new category of market benefit to be assessed in market body decisions.*”⁵ In this regard, amending the market benefits clauses in provisions relating to the ISP and RIT processes to expressly include emissions reduction as a new class of market benefit will give effect to the intent behind the changes to the NEO.

We therefore recommend amending the following clauses to include emissions reduction as a class of market benefits under the ISP and RIT frameworks:

- » clause 5.15A.2(b)(4) of the NER, which requires that the RIT-T must require a proponent to consider certain market benefits that could be delivered by a credible option,
- » clause 5.17.1(c)(4) of the NER, which requires that the RIT-D must require a proponent to consider certain market benefits that could be delivered by a credible option, and
- » clause 5.22.10(c)(1) of the NER, which requires AEMO, when preparing the ISP, to consider a list of classes of market benefits that could be delivered by the development path.

ENA is considering recommended legal drafting to give effect to this and will provide it to the Commission separately.

The Consultation Paper also queries the potential amendment to clause 5.15A.3(b) of the NER, which sets out the principles for RIT-Ts for actionable ISP projects. Subclause (4) requires a RIT-T proponent, among other things, to include a quantification of all classes of market benefits identified in the relevant ISP. The classes of market benefits required to be identified in the ISP are set out in clause 5.22.10(c)(1) of the NER (outlined above). It is our understanding, given the link to market benefits identified in the ISP (and our recommended amendment to the ISP market benefit classes), no additional amendment is required to subclause (4) or any other subclause of cl 5.15A.3.

Box 4: ENA recommendation 4

To ensure that the achievement of emissions reduction targets is included as a new class of market benefit in the ISP and RIT frameworks, ENA recommends updates to clauses 5.15A.2(b)(4), 5.17.1(c)(4) and 5.22.10(c)(1) of the NER. ENA is considering recommended legal drafting and will provide it to the Commission separately.

⁵ The Hon A Koutsantonis, Second Reading Speech for the Statutes Amendment (National Energy Laws) (Emissions Reduction Objectives) Bill, 14 June 2023.

5.1.2 ISP power system needs

ENA supports amendments to clause 5.22.3 of the NER to align the ISP power system needs with the amended NEO.

Clause 5.22.3 of the NER deals with the type of power system needs that the ISP is directed at addressing. Power system needs are defined in subclause (a) as the reliability standard, power system security, system standards and requirements of the NER or a regulatory instrument. They do not include the achievement of emissions reduction targets.

However, in determining power system needs, under subclause (b), AEMO *may* consider current environmental or energy policies where those policies are either the subject of an international agreement, enacted in legislation, the subject of a specific regulatory obligation, have budget funding allocated to them, or are the subject of Ministerial direction or advice to AEMO.

ENA recommends that clause 5.22.3(b) be amended (as proposed in **Appendix A**) to reflect a new provision that requires AEMO to consider any targets of a participating jurisdiction, including those that are in the target statement prepared by the AEMC under the NEL. This will ensure alignment between the policies considered by AEMO and those that are relevant to the NEO.

A further matter raised by Energy Senior Officials in their rule change request is whether subclause (a) of clause 5.22.3 should be amended to include emissions reduction as a power system need. It is our understanding that, if the amendments to subclause (b) are adopted, then no amendment to subclause (a) is required. This is because the proposed amendments to subclause (b) would ensure AEMO considers emissions reduction objectives in determining the power system needs under subclause (a).

Box 5: ENA recommendation 5

To ensure alignment between the amended NEO and the ISP power system needs, ENA recommends updates to clause 5.22.3(b) of the NER (with proposed drafting included in **Appendix A** of this submission).

5.1.3 ISP references to the long term interests of consumers

ENA supports changes to the two provisions of the ISP framework under Chapter 5 of the NER that refer to the “long term interests of consumers” so these clauses include reference to the NEO as a whole.

The two provisions are:

- » clause 5.22.2, which sets out the ISP’s statement of purpose. The ISP’s statement of purpose is to establish “*a whole of system plan for the efficient development of the power system that achieves power system needs for a planning horizon of at least 20 years for the long term interests of the consumers of electricity*”, and
- » clause 5.22.7(d)(2), which relates to the ISP consumer panel.

These provisions do not reference the national energy objectives. Energy Senior Officials, in their rule change request, suggest that references in these provisions to the long term interests of consumers (instead of the NEO) be amended to refer to the NEO as a whole.

We support an amendment that clarifies that the relevant objective is the NEO rather than the interests of consumers in some narrower sense. This could be achieved by simply deleting the words ‘for the long

term interests of consumers' in the relevant provisions and replacing this with 'for the advancement of the national electricity objective' (as we have proposed in **Appendix A**).

Box 6: ENA recommendation 6

To ensure that references to the long term interests of consumers clarify that the relevant objective is the NEO, ENA recommends updates to clauses 5.22.2 and 5.22.7(d)(2) of the NER (with proposed drafting included in **Appendix A** of this submission).

5.1.4 Cost Benefit Guidelines and general RIT principles

ENA supports changes to the RIT general principles to incorporate consideration of emissions reduction and expand the categories of relevant beneficiaries for the purposes of assessing economic benefits.

General principles for RITs

The general principles for both the transmission and distribution RITs are focused on maximising the "present value of the net economic benefit to all those who produce, consume and transport electricity in the market". No reference is made to the benefits of emissions reduction.

Energy Senior Officials have suggested that these provisions could be amended to incorporate consideration of emissions reduction and expand the categories of relevant beneficiaries for the purposes of assessing economic benefits.

ENA supports the following amendments to the RIT-T and RIT-D general principles clauses, as proposed in **Appendix A**:

- » clauses 5.15A.1(c) and 5.17.1(b) provide that the purpose of the RIT-T and RIT-D is to identify "the credible option that maximises the present value of net economic benefit to all those who produce, consume and transport electricity in the market". ENA recommends clarifying that a net economic benefit includes economic benefits of achieving emissions reduction targets, whether or not those benefits accrue to those who produce, consume and transport electricity in the market.

This amendment recognises that economic benefits of achieving emissions reduction targets may accrue to a broader range of beneficiaries than just participants in the market. Allowing for this is necessary to ensure that any investment proposals aimed at achieving emissions reduction targets may be properly considered by the AER and RIT-T and RIT-D proponents in any RIT process.

For completeness, we note there are a small number of other related clauses of the RIT provisions that include similar wording that limits the consideration of economic benefits to "to all those who produce, consume and transport electricity in the market". These are subclauses 5.15A.2(b)(12) and 5.17.1(c)(9)(v). For the same reasons identified above, and for consistency with our proposed amendments to clauses 5.15A.1(c) and 5.17.1(b), we recommend that these clauses are amended to clarify that a net economic benefit includes economic benefits of achieving emissions reduction targets, whether or not those benefits accrue to those who produce, consume and transport electricity in the market.

- » clause 5.15A.2(b)(9) and clause 5.17.1(c)(8) provides that the RIT-T and RIT-D must provide that any cost or market benefit which cannot be measured as a cost or market benefit to generators, DNSPs, TNSPs, or consumers of electricity may not be included in any analysis under RIT-T and/or RIT-D. In our view, having regard to the proposed amendments to insert the achievement of emissions

reductions targets as a new class of market benefit and the amendments to clauses 5.15A.1(c) and 5.17.1(b) above, these provisions should be amended to specify that this does not apply to the new emissions reduction market benefit.

We also recommend that the following clauses, which currently include the phrase ‘net economic benefit to all those who produce, consume and transport electricity in the market’ (or a variation thereof), be amended to clarify that a net economic benefit includes economic benefits of achieving emissions reduction targets, whether or not those benefits accrue to those who produce, consume and transport electricity in the market (as proposed in **Appendix A**):

- » clause 5.12.1(b), which requires TNSPs to conduct annual planning reviews that must consider a range of criteria, which include *“the potential for augmentations, or non-network alternatives to augmentations, that are likely to provide a net economic benefit to all those who produce, consume and transport electricity in the market”*.
- » clause 6.6.3(c), which relates to the AER’s demand management incentive scheme and requires that, when developing and applying the scheme, the AER must take into account that the scheme should balance the incentives between expenditure on network options and non-network options, or standalone power system options, relating to demand management. In doing so, the AER may take into account the *“net economic benefits delivered to all those who produce, consume and transport electricity in the market associated with implementing relevant non-network options”*.

We do not consider that any amendments to clause 3.11.6(a) are necessary given that this relates to AEMO dispatch of Network Support and Control Ancillary Services, rather than network planning / expenditure.

Cost Benefit Analysis Guidelines

The Cost Benefit Analysis Guidelines are used by TNSPs in applying the RIT-T for actionable ISP projects and AEMO in preparing the ISP. Under clause 5.22.25, the Cost Benefit Analysis Guidelines, in relation to the preparation of the ISP, must be consistent with the purposes of the ISP referred to in clause 5.22.2.

As proposed in Section 5.1.3 above, we recommend amendments be made to clause 5.22.2 to include reference to the NEO in the ISP statement of purpose. In relation to RIT-Ts for actionable ISP projects, the Cost Benefit Guidelines must give effect to and be consistent with rule 5.15A, which we also recommend amending (in Section 5.1.1). As a result, we consider that no additional amendments are required to clause 5.22.25 relating to the Cost Benefit Guidelines, as our proposed amendments to clause 5.22.2 and rule 5.15A would flow through.

Box 7: ENA recommendation 7

To ensure that the general principles for RITs incorporate consideration of emissions reduction and expand the categories of relevant beneficiaries for the purposes of assessing economic benefits, ENA recommends updates to clauses 5.15A.1(c), 5.17.1(b), 5.15A.2(b)(12), 5.17.1(c)(9)(v), 5.15A.2(b)(9) and 5.17.1(c)(8) of the NER. For consistency purposes, we also recommend updates to clause 5.12.1(b) and clause 6.6.3(c) of the NER (with proposed drafting included in **Appendix A** of this submission).

5.1.5 Transitional provisions

Where a RIT project has not passed one of the ‘cut off points’ (as defined in the Bill) prior to the ‘start day’ under the Bill (i.e., the draft report has not yet been published), the amended NEO will apply.

There is no discretion for either the AER or the project proponent in this scenario. The ‘start day’ is defined as the day two months after the commencement of the Bill when the updated NEO comes into effect. The Bill commences from the date of its assent. For example, it is our understanding that, if the Bill receives assent and commences on 1 September 2023, RIT projects that have not passed the draft report stage before 1 November 2023 will be subject to the amended NEO.

In this regard, we consider that any transitional arrangements for any changes to the RIT frameworks under the NER should mirror the final transitional arrangements in the Bill as passed. As discussed in the sections above, the current rules do not expressly permit RIT proponents (and the AER) to take into account benefits associated with the achievement of emissions reduction targets. Accordingly, transitional arrangements are required to ensure that, where the updated NEO applies to a RIT project, the RIT proponent (and AER as applicable) can have regard to the updated NER that allow for consideration of emissions reduction targets in RIT processes.

These transitional arrangements should mirror those under the Bill to ensure that any RIT projects that are subject to the updated NEO under the amendments to the NEL are subject to the amended NER. This will allow the amendments to the RIT framework to the NER to take effect and apply to RIT projects that are subject to the updated NEO under the new NEL. In **Appendix B**, we have set out proposed drafting of transitional provisions giving effect to the above proposals.

Box 8: ENA recommendation 8

To ensure that any RIT projects that are subject to the updated NEO under the amendments to the NEL are also subject to the amended NER, ENA recommends the development of specific RIT related transitional arrangements (with proposed drafting included in **Appendix B** of this submission).

5.1.6 Potential alternative proposals

The AEMC, as a potential alternative to the proposed rule changes, identifies that the existing ISP rules allow AEMO to consider other market benefits that are “*determined to be relevant by AEMO and agreed to by the AER in writing before the publication of the draft ISP; or specified as a class of market benefit in the Cost Benefit Analysis Guidelines.*” The AEMC notes that similar provisions relating to the potential consideration of other market benefits exist for RIT-T and RIT-D processes, which could provide an avenue for the consideration of emissions reduction without any need to change the rules.

In our view, this is an inferior option to the proposed rule changes as it may result in inconsistent approaches being taken to the treatment and consideration of emissions reduction targets as part of the ISP and RIT-T and RIT-D processes. This is likely to result in a lack of transparency and increased uncertainty for stakeholders. Moreover, this is contrary to the clear legislative intention of the Bill, which

is for the reduction of greenhouse gas emissions to be “*a new category of market benefit to be assessed in market body decisions*”.

In addition, under clause 5.22.3(b) of the NER, in determining power system needs for the purpose of developing the ISP, AEMO may consider current environmental or energy policies. However, these are of a more limited type than is contemplated under the Bill.

For an environmental or energy policy to be considered by AEMO, it must be either be the subject of an international agreement, enacted in legislation, the subject of a specific regulatory obligation, have budget funding allocated to it, or be the subject of Ministerial direction or advice to AEMO.

The new NEO refers to the achievement of targets of a participating jurisdiction, including those that are set out in the targets statement published by the AEMC. The AEMC’s target statement includes targets set by a participating jurisdiction both for reducing Australia’s greenhouse gas emissions and that are likely to contribute to reducing Australia’s greenhouse gas emissions. Without the proposed rule change, there is a risk of misalignment between the policies that AEMO may consider when determining power systems needs and those that are relevant to the NEO.

6. Updating AER guidelines

The AER has identified that approximately 65 guidelines and guidance documents may need to be updated to reflect any rule changes and to ensure emissions reduction is explicitly referenced when appropriate. Energy Senior Officials have requested, to ease the administrative burden on the AER and stakeholders, that consideration be given to whether rule changes could be made to allow for a single consultation process to amend various AER guidelines and guidance documents as part of an omnibus update process.

The types of changes that are likely to be required to AER guidelines can be grouped into three broad categories:

- » **changes that are directly consequential on the rule changes:** this would include, for example, updating references to the new energy objectives in the guideline documents,
- » **material or substantive changes to the guidelines:** this would include, for example, where the updates are complex in nature and require detailed input from stakeholders that will be affected by the updates (e.g., such as potential changes to the AER’s Expenditure Forecast Assessment Guidelines), and
- » **changes that are less than directly consequential changes:** this would include, for example, minor or administrative changes and corrections that do not impact or change requirements for participants (i.e., updating clause references).

ENA supports the AER undertaking an omnibus update process for directly consequential changes (i.e., those described in the first bullet point above) under the distribution consultation procedures (i.e., a single consultation process). Minor and administrative changes (as contemplated in the third bullet point above) may not require consultation under the NER / NGR. However, ENA recommends that these changes are referenced in the omnibus review, for example, in an appendix, for completeness and stakeholder transparency.

This omnibus review, however, should not preclude the AER from undertaking individual substantive reviews of those guidelines and instruments that involve more material amendments, and we

recommend that the AEMC clarify in its rule determination that permitting the omnibus consultation process is not intended to preclude separate consultation processes for more substantive amendments.

Box 9: ENA recommendation 9

To ensure a streamlined and timely update of AER guidelines, ENA supports the AER undertaking an omnibus update process for changes to guidelines that are directly consequential only. Minor and administrative changes should be referenced in this omnibus review for completeness and stakeholder transparency. Material or substantive changes to guidelines should be undertaken via individual reviews and be pursued in a timely manner given the importance of this reform.

Appendix A | Proposed rule amendments

Rule reference and description	Proposed amendment
Network and pipeline expenditure provisions	
Electricity distribution	
cl 6.5.6(a) of the NER Operating expenditure objectives	<p>A <i>building block proposal</i> must include the total forecast operating expenditure for the relevant <i>regulatory control period</i> which the <i>Distribution Network Service Provider</i> considers is required in order to achieve each of the following (the <i>operating expenditure objectives</i>):</p> <ul style="list-style-type: none"> (1) meet or manage the expected demand for <i>standard control services</i> over that period; (2) comply with all applicable <i>regulatory obligations or requirements</i> associated with the provision of <i>standard control services</i>; (3) to the extent that there is no applicable <i>regulatory obligation or requirement</i>... (4) maintain the safety of the <i>distribution system</i> through the supply of <i>standard control services</i>; <u>and</u> <u>(5) support the achievement of targets set by a participating jurisdiction:</u> <ul style="list-style-type: none"> <u>(a) for reducing Australia’s greenhouse gas emissions; or</u> <u>(b) that are likely to contribute to reducing Australia’s greenhouse gas emissions,</u> <p><u>including those targets set out in the targets statement published by the AEMC in accordance with section 32A of the Law.</u></p>
cl 6.5.7(a) of the NER Capital expenditure objectives	<p>A <i>building block proposal</i> must include the total forecast capital expenditure for the relevant <i>regulatory control period</i> which the <i>Distribution Network Service Provider</i> considers is required in order to achieve each of the following (the <i>capital expenditure objectives</i>):</p>

Rule reference and description	Proposed amendment
	<p>(1) meet or manage the expected demand for <i>standard control services</i> over that period;</p> <p>(2) comply with all applicable <i>regulatory obligations or requirements</i> associated with the provision of <i>standard control services</i>;</p> <p>(3) to the extent that there is no applicable <i>regulatory obligation or requirement</i>...</p> <p>(4) maintain the safety of the <i>distribution system</i> through the supply of <i>standard control services</i>; <u>and</u></p> <p><u>(5) support the achievement of targets set by a participating jurisdiction:</u></p> <p><u>(a) for reducing Australia's greenhouse gas emissions; or</u></p> <p><u>(b) that are likely to contribute to reducing Australia's greenhouse gas emissions,</u></p> <p><u>including those targets set out in the targets statement published by the AEMC in accordance with section 32A of the Law.</u></p>
Electricity transmission	
<p>cl 6A.6.6(a) of the NER</p> <p>Operating expenditure objectives</p>	<p>A Revenue Proposal must include the total forecast operating expenditure for the relevant <i>regulatory control period</i> which the <i>Transmission Network Service Provider</i> considers is required in order to achieve each of the following (the <i>operating expenditure objectives</i>):</p> <p>(1) meet or manage the expected demand for <i>prescribed transmission services</i> over that period;</p> <p>(2) comply with all applicable <i>regulatory obligations or requirements</i> associated with the provision of <i>prescribed transmission services</i>;</p> <p>(3) to the extent that there is no applicable <i>regulatory obligation or requirement</i>...</p> <p>(4) maintain the safety of the <i>transmission system</i> through the supply of <i>prescribed transmission services</i>; <u>and</u></p>

Rule reference and description	Proposed amendment
	<p><u>(5) support the achievement of targets set by a participating jurisdiction:</u></p> <p><u>(a) for reducing Australia's greenhouse gas emissions; or</u></p> <p><u>(b) that are likely to contribute to reducing Australia's greenhouse gas emissions,</u></p> <p><u>including those targets set out in the targets statement published by the AEMC in accordance with section 32A of the Law.</u></p>
<p>cl 6A.6.7(a) of the NER</p> <p>Capital expenditure objectives and criteria</p>	<p>A Revenue Proposal must include the total forecast capital expenditure for the relevant <i>regulatory control period</i> which the <i>Transmission Network Service Provider</i> considers is required in order to achieve each of the following (the capital expenditure objectives):</p> <p>(1) meet or manage the expected demand for <i>prescribed transmission services</i> over that period;</p> <p>(2) comply with all applicable <i>regulatory obligations or requirements</i> associated with the provision of <i>prescribed transmission services</i>;</p> <p>(3) to the extent that there is no applicable <i>regulatory obligation or requirement</i> in relation to...</p> <p>(4) maintain the safety of the <i>transmission system</i> through the supply of <i>prescribed transmission services</i>; <u>and</u></p> <p><u>(5) support the achievement of targets set by a participating jurisdiction:</u></p> <p><u>(a) for reducing Australia's greenhouse gas emissions; or</u></p> <p><u>(b) that are likely to contribute to reducing Australia's greenhouse gas emissions,</u></p> <p><u>including those targets set out in the targets statement published by the AEMC in accordance with section 32A of the Law.</u></p>

Rule reference and description	Proposed amendment
Gas	
<p>r 79(2) of the NGR</p> <p>New capital expenditure criteria</p>	<p>Capital expenditure is justifiable if:</p> <p>(a) the overall economic value of the expenditure is positive; or</p> <p>(b) the present value of the expected incremental revenue to be generated as a result of the expenditure exceeds the present value of the capital expenditure; or</p> <p>(c) the capital expenditure is necessary:</p> <p>(i) to maintain and improve the safety of services; or</p> <p>(ii) to maintain the integrity of services; or</p> <p>(iii) to comply with a regulatory obligation or requirement; or</p> <p>(iv) to maintain the service provider's capacity to meet levels of demand for services existing at the time the capital expenditure is incurred (as distinct from projected demand that is dependent on an expansion of pipeline capacity); or</p> <p><u>(v) support the achievement of targets set by a participating jurisdiction:</u></p> <p><u>(A) for reducing Australia's greenhouse gas emissions; or</u></p> <p><u>(B) that are likely to contribute to reducing Australia's greenhouse gas emissions,</u></p> <p><u>including those targets set out in the targets statement published by the AEMC in accordance with section 72A of the Law; or</u></p> <p>(d) the capital expenditure is an aggregate amount divisible into 2 parts, one referable to incremental services and the other referable to a purpose referred to in paragraph (c), and the former is justifiable under paragraph (b) and the latter under paragraph (c).</p>

Rule reference and description	Proposed amendment
r 79(3) of the NGR New capital expenditure criteria	(3) In deciding whether the overall economic value of capital expenditure is positive, consideration is to be given only to economic value directly accruing to the service provider, gas producers, users, and end users, <u>and the broader Australian public</u> .
r 91(1) of the NGR Criteria governing operating expenditure	Operating expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to: <u>(a) achieve the lowest sustainable cost of delivering pipeline services; or</u> <u>(b) support the achievement of targets set by a participating jurisdiction:</u> <u>(i) for reducing Australia's greenhouse gas emissions; or</u> <u>(ii) that are likely to contribute to reducing Australia's greenhouse gas emissions,</u> <u>including those targets set out in the targets statement published by the AEMC in accordance with section 72A of the Law.</u>
Electricity network planning and investment provisions	
RIT-T	
cl 5.15A.1(c) of the NER General principles and application	(c) The purpose of the regulatory investment test for transmission in respect of its application to both types of projects is to identify the credible option that maximises the present value of net economic benefit to all those who produce, consume and transport electricity in the market (the preferred option). For the avoidance of doubt: <u>(1) a preferred option may, in the relevant circumstances, have a negative net economic benefit (that is, a net economic cost) to the extent the identified need is for reliability corrective action or the provision of inertia network services required under clause 5.20B.4; and</u>

Rule reference and description	Proposed amendment
	<p><u>(2) a net economic benefit includes economic benefits of achieving emissions reduction targets, whether or not those benefits accrue to those who produce, consume and transport electricity in the market.</u></p>
<p>cl 5.15A.2(b) of the NER</p> <p>Principles for projects which <i>are not</i> actionable ISP projects</p>	<p>(b) The regulatory investment test for transmission must:</p> <p>(1) be based on a cost-benefit analysis that is to include an assessment of reasonable scenarios of future supply and demand if each credible option were implemented compared to the situation where no option is implemented;</p> <p>(2) not require a level of analysis that is disproportionate to the scale and likely impact of each of the credible options being considered;</p> <p>(3) be capable of being applied in a predictable, transparent and consistent manner;</p> <p>(4) require the RIT-T proponent to consider the following classes of market benefits that could be delivered by the credible option:</p> <p>(i) changes in fuel consumption arising through different patterns of generation dispatch;</p> <p>(ii) changes in voluntary load curtailment;</p> <p>(iii) changes in involuntary load shedding, with the market benefit to be considered using a reasonable forecast of the value of electricity to consumers;</p> <p>(iv) changes in costs for parties, other than the RIT-T proponent, due to:</p> <p>(A) differences in the timing of new plant;</p> <p>(B) differences in capital costs; and</p> <p>(C) differences in the operating and maintenance costs;</p> <p>(v) differences in the timing of expenditure;</p>

Rule reference and description	Proposed amendment
	<p>(vi) changes in network losses;</p> <p>(vii) changes in ancillary services costs;</p> <p>(viii) competition benefits;</p> <p><u>(ix) [as outlined in the body of the submission, ENA is considering drafting to include emissions reduction as a class of market benefit under the ISP and RIT frameworks and will provide this separately to the Commission]</u></p> <p><u>(x)</u> any additional option value (where this value has not already been included in the other classes of market benefits) gained or foregone from implementing that credible option with respect to the likely future investment needs of the market; and</p> <p><u>(xi)</u> other classes of market benefits that are:</p> <p>(A) determined to be relevant by the RIT-T proponent and agreed to by the AER in writing before the date the relevant project specification consultation report is made available to other parties under clause 5.16.4; or</p> <p>(B) specified as a class of market benefit in the regulatory investment test for transmission;</p> <p>(5) require a RIT-T proponent to include a quantification of all classes of market benefits which are determined to be material in the RIT-T proponent's reasonable opinion;</p> <p>(6) require a RIT-T proponent to consider all classes of market benefits as material unless it can, in the project assessment draft report, or in respect of a proposed preferred option which is subject to the exemption contained in clause 5.16.4(z1), in the project specification consultation report, provide reasons why:</p> <p>(i) a particular class of market benefit is likely not to affect materially the outcome of the assessment of the credible options under the regulatory investment test for transmission; or</p> <p>(ii) the estimated cost of undertaking the analysis to quantify the market benefit is likely to be disproportionate to the scale, size and potential benefits of each credible option being considered in the report;</p>

Rule reference and description	Proposed amendment
	<p>(7) with respect to the classes of market benefits set out in subparagraphs (4)(ii) and (iii), ensure that, if the credible option is for reliability corrective action, the quantification assessment required by paragraph (5) will only apply insofar as the market benefit delivered by the credible option exceeds the minimum standard required for reliability corrective action;</p> <p>(8) require the RIT-T proponent to quantify the following classes of costs:</p> <p>(i) costs incurred in constructing or providing the credible option;</p> <p>(ii) operating and maintenance costs in respect of the credible option;</p> <p>(iii) the cost of complying with laws, regulations and applicable administrative requirements in relation to the construction and operation of the credible option; and</p> <p>(iv) any other class of costs that are:</p> <p>(A) determined to be relevant by the RIT-T proponent and agreed to by the AER in writing before the date the relevant project specification consultation report is made available to other parties under clause 5.16.4; or</p> <p>(B) specified as a class of cost in the regulatory investment test for transmission;</p> <p>(9) provide that any cost or market benefit <u>(except for market benefits referred to in sub-clause (b)(4)(ix))</u> which cannot be measured as a cost or market benefit to Generators, Distribution Network Service Providers, Transmission Network Service Providers or consumers of electricity may not be included in any analysis under the regulatory investment test for transmission;</p> <p>(10) specify:</p> <p>(i) the method or methods permitted for estimating the magnitude of the different classes of market benefits;</p> <p>(ii) the method or methods permitted for estimating the magnitude of the different classes of costs;</p>

Rule reference and description	Proposed amendment
	<p>(iii) the method or methods permitted for estimating market benefits which may occur outside the region in which the networks affected by the RIT-T project are located; and</p> <p>(iv) the appropriate method and value for specific inputs, where relevant, for determining the discount rate or rates to be applied;</p> <p>(11) specify that a sensitivity analysis is required of any modelling relating to the cost-benefit analysis; and</p> <p>(12) reflect that the credible option that maximises the present value of net economic benefit to all those who produce, consume or transport electricity in the market may, in some circumstances, have a negative net economic benefit (that is, a net economic cost) where the identified need is for reliability corrective action. <u>For the avoidance of doubt, a net economic benefit includes economic benefits of achieving emissions reduction targets, whether or not those benefits accrue to those who produce, consume and transport electricity in the market.</u></p>
RIT-D	
<p>cl 5.17.1(b) of the NER</p> <p>General principles and application for projects</p>	<p>(b) The purpose of the regulatory investment test for distribution is to identify the credible option that maximises the present value of the net economic benefit to all those who produce, consume and transport electricity in the NEM (the preferred option). For the avoidance of doubt:</p> <p><u>(1) a preferred option may, in the relevant circumstances, have a negative net economic benefit (that is, a net economic cost) where the identified need is for reliability corrective action;</u></p> <p><u>(2) a net economic benefit includes economic benefits of achieving emissions reduction targets, whether or not those benefits accrue to those who produce, consume and transport electricity in the market.</u></p>
<p>cl 5.17.1(c) of the NER</p> <p>Market benefits and costs analysis for projects</p>	<p>(c) The regulatory investment test for distribution must:</p> <p>(1) be based on a cost-benefit analysis that must include an assessment of reasonable scenarios of future supply and demand;</p>

Rule reference and description	Proposed amendment
	<p>(2) not require a level of analysis that is disproportionate to the scale and likely impact of each of the credible options being considered;</p> <p>(3) be capable of being applied in a predictable, transparent and consistent manner;</p> <p>(4) require the RIT-D proponent to consider whether each credible option could deliver the following classes of market benefits:</p> <p>(i) changes in voluntary load curtailment;</p> <p>(ii) changes in involuntary load shedding and customer interruptions caused by network outages, using a reasonable forecast of the value of electricity to customers;</p> <p>(iii) changes in costs for parties, other than the RIT-D proponent, due to differences in:</p> <p>(A) the timing of new plant;</p> <p>(B) capital costs; and</p> <p>(C) the operating and maintenance costs;</p> <p>(iv) differences in the timing of expenditure;</p> <p>(v) changes in load transfer capacity and the capacity of embedded generating units to take up load;</p> <p>(vi) any additional option value (where this value has not already been included in the other classes of market benefits) gained or foregone from implementing the credible option with respect to the likely future investment needs of the NEM;</p> <p>(vii) changes in electrical energy losses;</p> <p><u><i>(viii) [as outlined in the body of the submission, ENA is considering drafting to include emissions reduction as a class of market benefit under the ISP and RIT frameworks and will provide this separately to the Commission]</i></u></p>

Rule reference and description	Proposed amendment
	<p>(ix) any other class of market benefit determined to be relevant by the AER.</p> <p>(5) with respect to the classes of market benefits set out in subparagraphs (4)(i) and (ii), ensure that, if a credible option is for reliability corrective action, the consideration and any quantification assessment of these classes of market benefits will only apply insofar as the market benefit delivered by that credible option exceeds the minimum standard required for reliability corrective action;</p> <p>(6) require the RIT-D proponent to consider whether the following classes of costs would be associated with each credible option and, if so, quantify the:</p> <p>(i) financial costs incurred in constructing or providing the credible option;</p> <p>(ii) operating and maintenance costs over the operating life of the credible option;</p> <p>(iii) cost of complying with laws, regulations and applicable administrative requirements in relation to the construction and operation of the credible option; and</p> <p>(iv) any other financial costs determined to be relevant by the AER.</p> <p>(7) require a RIT-D proponent, in exercising judgement as to whether a particular class of market benefit or cost applies to each credible option, to have regard to any submissions received on the non-network options report and/or draft project assessment report where relevant;</p> <p>(8) provide that any market benefit or cost <u>(except for market benefits referred to in sub-clause (c)(4)(viii))</u> which cannot be measured as a market benefit or cost to persons in their capacity as Generators, Distribution Network Service Providers, Transmission Network Service Providers or consumers of electricity must not be included in any analysis under the regulatory investment test for distribution; and</p> <p>(9) specify:</p> <p>(i) the method or methods permitted for estimating the magnitude of the different classes of market benefits;</p> <p>(ii) the method or methods permitted for estimating the magnitude of the different classes of costs;</p>

Rule reference and description	Proposed amendment
	<p>(iii) the appropriate method and value for specific inputs, where relevant, for determining the discount rate or rates to be applied;</p> <p>(iv) that a sensitivity analysis is required for modelling the cost-benefit analysis; and</p> <p>(v) that the credible option that maximises the present value of net economic benefit to all those who produce, consume or transport electricity in the NEM may, in some circumstances, be a negative net economic benefit (that is, a net economic cost) where the identified need is for reliability corrective action. <u>For the avoidance of doubt, a net economic benefit includes economic benefits of achieving emissions reduction targets, whether or not those benefits accrue to those who produce, consume and transport electricity in the market.</u></p> <p>(d) A RIT-D proponent may, under the regulatory investment test for distribution, quantify each class of market benefits under paragraph (c)(4) where the RIT-D proponent considers that:</p> <p>(1) any applicable market benefits may be material; or</p> <p>(2) the quantification of market benefits may alter the selection of the preferred option.</p> <p>(e) The regulatory investment test for distribution permits a single assessment of an integrated set of related and similar investments.</p>
ISP	
<p>cl 5.22.2 of the NER</p> <p>Purpose of the ISP</p>	<p>Purpose of the ISP</p> <p>The purpose of the Integrated System Plan is to establish a whole of system plan for the efficient development of the power system that achieves power system needs for a planning horizon of at least 20 years for the advancement of the <u>national electricity objective</u> long term interests of consumers of electricity.</p>
<p>cl 5.22.3 of the NER</p>	<p>Power system needs</p> <p>a) The power system needs are:</p>

Rule reference and description	Proposed amendment
<p>The power system needs which the ISP is intended to achieve</p>	<ol style="list-style-type: none"> 1) the reliability standard; 2) power system security; 3) system standards; and 4) standards or technical requirements in Schedule 5.1 or in an applicable regulatory instrument. <p><u>b) In determining power system needs, AEMO must consider the achievement of targets set by a participating jurisdiction:</u></p> <ol style="list-style-type: none"> <u>1) for reducing Australia's greenhouse gas emissions; or</u> <u>2) that are likely to contribute to reducing Australia's greenhouse gas emissions,</u> <p><u>including those targets set out in the targets statement published by the AEMC in accordance with section 32A of the Law.</u></p> <p>b) In determining power system needs, as it relates to a NEM participating jurisdiction, AEMO may consider a current environmental or energy policy of that participating jurisdiction where that policy has been sufficiently developed to enable AEMO to identify the impacts of it on the power system and at least one of the following is satisfied:</p> <ol style="list-style-type: none"> 1) a commitment has been made in an international agreement to implement that policy; 2) that policy has been enacted in legislation; 3) there is a regulatory obligation in relation to that policy; 4) there is material funding allocated to that policy in a budget of the relevant participating jurisdiction; or 5) the MCE has advised AEMO to incorporate the policy.

Rule reference and description	Proposed amendment
<p>c 5.22.10(c) of the NER</p> <p>Classes of market benefits that could be delivered by the development path that AEMO must consider in preparing the ISP</p>	<p>Market benefits</p> <p>(c) In preparing an Integrated System Plan, AEMO must:</p> <p>(1) consider the following classes of market benefits that could be delivered by the development path:</p> <p>(i) changes in fuel consumption arising through different patterns of generation dispatch;</p> <p>(ii) changes in voluntary load curtailment;</p> <p>(iii) changes in involuntary load shedding, with the market benefit to be considered using a reasonable forecast of the value of electricity to consumers;</p> <p>(iv) changes in costs for parties due to:</p> <p>(A) differences in the timing of new plant;</p> <p>(B) differences in capital costs; and</p> <p>(C) differences in the operating and maintenance costs;</p> <p>(v) differences in the timing of expenditure;</p> <p>(vi) changes in network losses;</p> <p>(vii) changes in ancillary services costs;</p> <p>(viii) competition benefits;</p> <p><u><i>(ix) [as outlined in the body of the submission, ENA is considering drafting to include emissions reduction as a class of market benefit under the ISP and RIT frameworks and will provide this separately to the Commission]</i></u></p>

Rule reference and description	Proposed amendment
	<p>(x) any additional option value (where this value has not already been included in the other classes of market benefits) gained or foregone from implementing that credible option with respect to the likely future investment needs of the market; and</p> <p>(xi) other classes of market benefits that are:</p> <p>(xii) any additional option value (where this value has not already been included in the other classes of market benefits) gained or foregone from implementing that development path with respect to the likely future investment needs of the market; and</p> <p>(xiii) other classes of market benefits that are:</p> <p>(A) determined to be relevant by AEMO and agreed to by the AER in writing before the publication of the draft Integrated System Plan; or</p> <p>(B) specified as a class of market benefit in the Cost Benefit Analysis Guidelines;</p> <p>(2) include a quantification of all classes of market benefits which are determined to be material to the optimal development path in AEMO's reasonable opinion; and</p> <p>(3) consider all classes of market benefits as material unless it can provide reasons why:</p> <p>(i) a particular class of market benefit is likely not to materially affect the outcome of the assessment of the development path; or</p> <p>(ii) the estimated cost of undertaking the analysis to quantify the market benefit is likely to be disproportionate given the level of uncertainty regarding future outcomes.</p>
<p>cl 5.22.7(d)(2) of the NER</p> <p>ISP Consumer Panel</p>	<p>(d) The ISP consumer panel:</p> <p>2) must, in preparing the consumer panel report have regard to the <u>national electricity objective long term interests of consumers</u>; and</p>

Rule reference and description	Proposed amendment
Other provisions	
<p>cl 5.12.1(b) of the NER</p> <p>Transmission annual planning reviews</p>	<p>(b) Each Transmission Network Service Provider must conduct an annual planning review which must:</p> <p>(1) incorporate the forecast loads as submitted or modified in accordance with clause 5.11.1; and</p> <p>(2) include a review of the adequacy of existing connection points and relevant parts of the transmission system and planning proposals for future connection points; and</p> <p>(3) take into account the most recent Integrated System Plan, NSCAS Report, Inertia Report, System Strength Report, information from joint planning under rule 5.14 and power system frequency and other power system risk management planning; and</p> <p>(4) consider the potential for augmentations, or non-network alternatives to augmentations, that are likely to provide a net economic benefit to all those who produce, consume and transport electricity in the market;</p> <p>(5) consider the condition of network assets;</p> <p>(6) consider the potential for replacements of network assets, or non-network options to replacements of network assets, that are likely to provide a net economic benefit to all those who produce, consume and transport electricity in the market. <u>For the avoidance of doubt, a net economic benefit includes economic benefits of achieving emissions reduction targets, whether or not those benefits accrue to those who produce, consume and transport electricity in the market;</u> and</p> <p>(7) consider the operation of, and any known or potential interactions between:</p> <p>(i) any emergency frequency control schemes, or emergency controls in place under clause S5.1.8, on its network; and</p> <p>(ii) protection systems or control systems of plant connected to its network (including consideration of whether the settings of those systems are fit for purpose for the future operation of its network),</p>

Rule reference and description	Proposed amendment
	where the Transmission Network Service Provider expects that such operation or interactions would be likely to lead to cascading outages or major supply disruptions.
<p>cl 6.6.3(c) of the NER</p> <p>Demand management incentive scheme</p>	<p>(c) In developing, and applying, any demand management incentive scheme, the AER must take into account the following:</p> <p>(1) the scheme should be applied in a manner that contributes to the achievement of the demand management incentive scheme objective;</p> <p>(2) the scheme should reward Distribution Network Service Providers for implementing relevant non-network options, or SAPS options, that deliver net cost savings to retail customers;</p> <p>(3) the scheme should balance the incentives between expenditure on network options and non-network options, or SAPS options, relating to demand management. In doing so, the AER may take into account the net economic benefits delivered to all those who produce, consume and transport electricity in the market associated with implementing relevant non-network options. <u>For the avoidance of doubt, a net economic benefit includes economic benefits of achieving emissions reduction targets, whether or not those benefits accrue to those who produce, consume and transport electricity in the market;</u></p> <p>(4) the level of the incentive:</p> <p>(i) should be reasonable, considering the long term benefit to retail customers;</p> <p>(ii) should not include costs that are otherwise recoverable from any another source, including under a relevant distribution determination; and</p> <p>(iii) may vary by Distribution Network Service Provider and over time;</p> <p>(5) penalties should not be imposed on Distribution Network Service Providers under any scheme;</p> <p>(6) the incentives should not be limited by the length of a regulatory control period, if such limitations would not contribute to the achievement of the demand management incentive scheme objective; and</p>

Rule reference and description	Proposed amendment
	<p>(7) the possible interaction between the scheme and:</p> <p>(i) any other incentives available to the Distribution Network Service Provider in relation to undertaking efficient expenditure on, or implementation of, relevant non-network options, or SAPS options, relating to demand management;</p> <p>(ii) particular control mechanisms and their effect on a Distribution Network Service Provider's available incentives referred to in sub-paragraph (i); and</p> <p>(iii) meeting any regulatory obligation or requirement.</p>

Appendix B | Transitional provisions

Example transitional provisions

11.XXX Rules consequent on making of the National Electricity Amendment (Emissions Reduction Objective) Rule 2024

11.XXX.1 Definitions

For the purposes of this rule 11.XXX:

Amending Act means the *Statutes Amendment (National Energy Laws) (Emissions Reduction Objectives) Act 2023*

affected DNSP means each of the following Distribution Network Service Providers:

- (a) Evoenergy, the joint venture between Icon Distribution Investments Limited (ACN 073 025 224) and Jemena Networks (ACT) Pty Ltd (ACN 008 552 663), which is registered by AEMO as a Network Service Provider in accordance with section 12(1) of the NEL and clause 2.5.1 of the Rules to own, control and operate the distribution system in the Australian Capital Territory, or any successor to its business;
- (b) Ausgrid Operator Partnership (ABN 78 508 211 731), which comprises of:
 - (1) Blue Op Partner Pty Ltd (ACN 615 217 500) as trustee for the Blue Op Partner Trust;
 - (2) ERIC Alpha Operator Corporation 1 Pty Ltd (ACN 612 975 096) as trustee for ERIC Alpha Operator Trust 1;
 - (3) ERIC Alpha Operator Corporation 2 Pty Ltd (ACN 612 975 121) as trustee for ERIC Alpha Operator Trust 2;
 - (4) ERIC Alpha Operator Corporation 3 Pty Ltd (ACN 612 975 185) as trustee for ERIC Alpha Operator Trust 3; and
 - (5) ERIC Alpha Operator Corporation 4 Pty Ltd (ACN 612 975 210) as trustee for ERIC Alpha Operator Trust 4;
- (c) Endeavour Energy Network Operator Partnership (ABN 11 247 365 823), which comprises of:

- (1) Edwards O Pty Limited (ACN 618 643 486) as trustee for the Edwards O Trust;
 - (2) ERIC Epsilon Operator Corporation 1 Pty Ltd (ACN 617 221 735) as trustee for ERIC Epsilon Operator Trust 1;
 - (3) ERIC Epsilon Operator Corporation 2 Pty Ltd (ACN 617 221 744) as trustee for ERIC Epsilon Operator Trust 2;
 - (4) ERIC Epsilon Operator Corporation 3 Pty Ltd (ACN 617 221 753) as trustee for ERIC Epsilon Operator Trust 3; and
 - (5) ERIC Epsilon Operator Corporation 4 Pty Ltd (ACN 617 221 771) as trustee for ERIC Epsilon Operator Trust 4;
- (d) Essential Energy, the energy services corporation of that name (formerly known as Country Energy) which is constituted under section 7 of the *Energy Services Corporations Act 1995* (NSW) and specified in Part 2 of Schedule 1 of that Act, or any successor to its business;
- (e) Power and Water Corporation (ABN 15 947 352 360), providing distribution services in the Northern Territory, or any successor to its business;
- (f) Tasmanian Networks Pty Ltd (ACN 167 357 299), in its capacity as a Distribution Network Service Provider;
- (g) SA Power Networks (ABN 13 332 330 749) or any successor to its business;
- (h) Ergon Energy Corporation Limited (ACN 087 646 062) or any successor to its business;
- (i) Energex Limited ACN 078 849 055 or any successor to its business.

affected TNSP means Tasmanian Networks Pty Ltd (ACN 167 357 299), in its capacity as a Transmission Network Service Provider.

Amending Rule means the *National Electricity Amendment (Emissions Reduction Objective) Rule 2024*.

Commencement date means the day on which the Amending Rule commences operation.

Commencement date of the Amending Act means the day on which the Amending Act commences operation.

Current regulatory control period in respect of an affected DNSP or an affected TNSP, means the *regulatory control period* that commenced before the commencement date and, as at the commencement date, has not ended.

New distribution expenditure rules means clauses 6.5.6 and 6.5.7 of the *Rules* as in force immediately after the commencement date.

New regulatory investment test for distribution rules means clause 5.17.1 of the *Rules* as in force immediately after the commencement date.

New regulatory investment test for transmission rules means clauses 5.15A.1 and 5.15A.2 of the *Rules* as in force immediately after the commencement date.

New transmission expenditure rules means clauses 6A.6.6 and 6A.6.7 of the *Rules* as in force immediately after the commencement date.

Subsequent distribution determination means a *distribution determination* for an affected DNSP for the subsequent regulatory control period.

Subsequent transmission determination means a *transmission determination* for an affected TNSP for the subsequent regulatory control period.

Subsequent regulatory control period in respect of an affected DNSP or an affected TNSP, means the *regulatory control period* that immediately follows the current *regulatory control period*.

11.XXX.2 Transitional arrangements for affected DNSPs

- (a) The new distribution expenditure rules apply for the purposes of making a subsequent distribution determination for an affected DNSP.
- (b) Where an affected DNSP has submitted a *regulatory proposal* for the subsequent regulatory control period prior to the commencement date, the affected DNSP may, within 20 *business days* of the commencement date:
 - (1) amend the forecast of operating expenditure included in its *building block proposal* under clause 6.5.6 of the *Rules* for the subsequent regulatory control period;

- (2) amend the forecast of capital expenditure included in its *building block proposal* under clause 6.5.7 of the *Rules* for the subsequent regulatory control period; and
 - (3) make submissions to the *AER* identifying any elements of its *regulatory proposal* that may be affected by application of the new distribution expenditure rule
- (c) An affected DNSP may only make amendments under sub-clause (b)(1) or (b)(2) to the extent necessary to ensure that its forecasts comply with the new distribution expenditure rules.
- (d) Without limitation to paragraph (b), where an affected DNSP has not submitted a revised regulatory proposal for the subsequent regulatory control period prior to the commencement date, the affected DNSP may, as part of revisions to its regulatory proposal under clause 6.10.3 of the *Rules*, make amendments of the type referred to in subparagraph (b)(1) or (b)(2) to the extent necessary to ensure that its forecasts comply with the new distribution expenditure rules.
- (e) Where an affected DNSP makes amendments under subparagraph (b)(1) or (b)(2) or paragraph (d), the *AER* may, but is not required to, invite further submissions in relation to those amendments.

11.XXX.3 Transitional arrangements for the affected TNSP

- (a) The new transmission expenditure rules apply for the purposes of making a subsequent transmission determination for the affected TNSP.
- (b) Where the affected TNSP has submitted a *Revenue Proposal* for the subsequent regulatory control period prior to the commencement date, the affected TNSP may, within 20 *business days* of the commencement date:
- (1) amend the forecast of operating expenditure included in its *Revenue Proposal* under clause 6A.6.6 of the *Rules* for the subsequent regulatory control period;
 - (2) amend the forecast of capital expenditure included in its *Revenue Proposal* under clause 6A.6.7 of the *Rules* for the subsequent regulatory control period; and
 - (3) make submissions to the *AER* identifying any elements of its *Revenue Proposal* that may be affected by application of the new transmission expenditure rules.

- (c) The affected TNSP may only make amendments under sub-clause (b)(1) or (b)(2) to the extent necessary to ensure that its forecasts comply with the new transmission expenditure rules.
- (d) Where the affected TNSP makes amendments under sub-clause (b)(1) or (b)(2), the *AER* may, but is not required to, invite further submissions in relation to those amendments.

11.XXX.4 Transitional arrangements for the regulatory investment test for transmission

- (a) If a project assessment draft report for a *RIT-T project* has not yet been made available by the RIT-T proponent under clause 5.16.4(j) of the *Rules* or published under clause 5.16A.4(c) of the *Rules* before the day that is 2 months after the commencement date of the Amending Act, then the new regulatory investment test for transmission rules apply for the purposes of applying the *regulatory investment test for transmission* to the RIT-T project.
- (b) For the avoidance of doubt, if a project assessment draft report for a *RIT-T project* has been made available by the RIT-T proponent under clause 5.16.4(j) of the *Rules* or published under clause 5.16A.4(c) of the *Rules* before the day that is 2 months after the commencement date of the Amending Act, the *Rules* in force before the new regulatory investment test for transmission rules came into operation apply.

11.XXX.5 Transitional arrangements for the regulatory investment test for distribution

- (a) If a draft project assessment report for a *RIT-D project* has not yet been published by a RIT-D proponent under clause 5.17.4(i) of the *Rules* before the day that is 2 months after the commencement date of the Amending Act, the new regulatory investment test for distribution rules apply for the purposes of applying the *regulatory investment test for distribution* to the RIT-D project.
- (b) For the avoidance of doubt, if a draft project assessment report for a *RIT-D project* has been published by a RIT-D proponent under clause 5.17.4(i) of the *Rules* before the day that is 2 months after the commencement date of the Amending Act, the *Rules* in force before the new regulatory investment test for distribution rules came into operation apply.