

# NORTHERN TERRITORY OF AUSTRALIA

## NATIONAL ELECTRICITY (NORTHERN TERRITORY) (NATIONAL UNIFORM LEGISLATION) (MODIFICATION) REGULATIONS

As in force at 1 July 2016

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2016

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## NATIONAL ELECTRICITY (NORTHERN TERRITORY) (NATIONAL UNIFORM LEGISLATION) (MODIFICATION) REGULATIONS

Regulations under the *National Electricity (Northern Territory) (National Uniform) Legislation Act*

### Part 1 Preliminary matters

#### 1 Citation

These Regulations may be cited as the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations*.

#### 2 Commencement

- (1) Regulation 9 and Schedule 3 commence on 1 December 2016.
- (2) The remaining provisions of these Regulations commence on 1 July 2016.

### Part 2 Modifications to National Electricity Regulations

#### 3 National Electricity Regulations modified

For section 13(2)(b) of the Act, the regulations in force from time to time under Part 4 of the *National Electricity (South Australia) Act 1996* (SA) are modified as set out in Schedule 1.

### Part 3 Modifications to National Electricity Rules

#### 4 Interpretation

- (1) In this Part:

**2014 NT Network Price Determination**, see the National Electricity (NT) Rules, Chapter 10.

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***applicable regulatory instruments***, see the 2014 NT Network Price Determination, Part B, Schedule 1, clause 1.1.

***local support*** means credit support as defined in the 2014 NT Network Price Determination, Part B, Schedule 1, clause 1.1.

- (2) An expression used in regulation 6 or 7 that is italicised has the same meaning as it has in the National Electricity (NT) Rules.

## 5 National Electricity Rules modified

For section 13(2)(c) of the Act, the operation of the National Electricity Rules is modified as set out in this Part for the purpose of their having the force of law in this jurisdiction under section 9 of the National Electricity (NT) Law.

## 6 Modification to operation of clause 6.6.1

- (1) This regulation applies in relation to a *positive change event* that is a local event prescribed by regulation 10.
- (2) Under clause 6.6.1(c) of the National Electricity (NT) Rules, the written statement in relation to the *positive change event* must specify evidence of:
- (a) the amount to which the *Distribution Network Service Provider* is entitled under any relevant local support; and
  - (b) the maximum amount of local support (if any) that the *Distribution Network Service Provider* was entitled to request the *retailer* to provide under the applicable regulatory instruments; and
  - (c) any amount that the *Distribution Network Service Provider* is likely to receive on a winding-up of the *retailer*.
- (3) For the purposes of calculating, under clause 6.6.1 of the National Electricity (NT) Rules, the *eligible pass through amount* in relation to the *positive change event*, the increase in costs is the *retailer* insolvency costs excluding:
- (a) any amount recovered or recoverable from a *retailer* or a guarantor of a *retailer* under any relevant local support; and
  - (b) amounts that the *Distribution Network Service Provider* is likely to receive on a winding-up of the *retailer*; and
  - (c) any costs that are recoverable on account of the *retailer* insolvency under any retailer of last resort scheme established under the applicable regulatory instruments.

- (4) The amount the *AER* determines, under clause 6.6.1 of the National Electricity (NT) Rules, should be passed through to *Distribution Network Users* in respect of the *positive change event* must be taken to be a cost that can be passed through and not a revenue impact of the event.

## **7 Modification to operation of clause 6.6.1AB**

- (1) This regulation applies in relation to an *NT positive change event* that is a retailer insolvency event as defined in the 2014 NT Network Price Determination, Part B, Schedule 1, clause 1.1.
- (2) Under clause 6.6.1AB(c) of the National Electricity (NT) Rules, the written statement in relation to the *NT positive change event* must specify evidence of:
- (a) the amount to which the *Distribution Network Service Provider* is entitled under any relevant local support; and
  - (b) the maximum amount of local support (if any) that the *Distribution Network Service Provider* was entitled to request the *retailer* to provide under the applicable regulatory instruments; and
  - (c) any amount that the *Distribution Network Service Provider* is likely to receive on a winding-up of the *retailer*.
- (3) For the purposes of calculating, under clause 6.6.1AB of the National Electricity (NT) Rules, the *eligible pass through amount* in relation to the *NT positive change event*, the increase in costs is the *retailer* insolvency costs excluding:
- (a) any amount recovered or recoverable from a *retailer* or a guarantor of a *retailer* under any relevant local support; and
  - (b) amounts that the *Distribution Network Service Provider* is likely to receive on a winding-up of the *retailer*; and
  - (c) any costs that are recoverable on account of the *retailer* insolvency under any retailer of last resort scheme established under the applicable regulatory instruments.
- (4) The amount the *AER* determines, under clause 6.6.1AB of the National Electricity (NT) Rules, should be passed through to *Distribution Network Users* in respect of the *NT positive change event* must be taken to be a cost that can be passed through and not a revenue impact of the event.

**8 Further modifications to operation of Rules**

Schedule 2 has effect.

**9 Further modifications to operation of Rules commencing on 1 December 2016**

Schedule 3 has effect.

**Part 4 Local event for National Electricity (NT) Rules**

**10 Local event**

(1) For clause 6.6.1(a1)(1AA) of the National Electricity (NT) Rules, a local event is the failure of a *retailer* during a *regulatory control period*, to pay a *Distribution Network Service Provider* an amount to which the provider is entitled for the provision of *direct control services*, if:

- (a) an *insolvency official* has been appointed in respect of that *retailer*; and
- (b) the provider is not entitled to payment of that amount in full under the terms of any local support in respect of that *retailer*.

(2) In this regulation:

**2014 NT Network Price Determination**, see the National Electricity (NT) Rules, Chapter 10.

**local support** means credit support as defined in the 2014 NT Network Price Determination, Part B, Schedule 1, clause 1.1.

(3) An expression used in subregulation (1) that is italicised has the same meaning as it has in the National Electricity (NT) Rules.

**Part 5 Expiry of provisions**

**11 Expiry of certain provisions**

(1) The following expire when the National Energy Retail Law is applied as a law of this jurisdiction:

- (a) regulation 6;
- (b) Part 4;
- (c) Schedule 1, Part 3;



- (d) Schedule 2, Part 3.
- (2) Schedule 2, Part 4 expires on 1 July 2029.
- (3) The following expire on 1 July 2024:
  - (a) regulation 7;
  - (b) Schedule 1, Part 4;
  - (c) Schedule 2, Part 5.
- (4) Schedule 2, Part 6 expires on 1 July 2019.
- (5) The following expire on 1 July 2017:
  - (a) Schedule 2, Part 7;
  - (b) Schedule 3, Part 3.
- (6) Schedule 2, Part 8 expires on 1 December 2016.
- (7) Regulation 4 expires on the later of the expiry of the following:
  - (a) regulation 6;
  - (b) regulation 7.
- (8) This Part expires on the later of the expiry of the following:
  - (a) regulation 6;
  - (b) Schedule 2, Part 4.

## **Schedule 1 Modifications to National Electricity Regulations**

regulation 3

### **Part 1 Preliminary matters**

#### **1 Regulations modified**

This Schedule modifies the regulations mentioned in regulation 3.

### **Part 2 Continuing modification**

#### **2 Schedule 2 modified**

Schedule 2, clause 22, at the end

*insert*

However, this clause has no effect in this jurisdiction.

### **Part 3 Modification expiring on adoption of National Energy Retail Law**

#### **3 Regulation 5A modified**

Regulation 5A, at the end

*insert*

However, this regulation has no effect in this jurisdiction until the National Energy Retail Law is applied as a law of this jurisdiction.

### **Part 4 Modification expiring on 1 July 2024**

#### **4 Regulation 9 modified**

(1) Before regulation 9(1)

*insert*

(1AA) For the purposes of paragraph (a) of the definition of *reviewable regulatory decision* in section 71A of the new National Electricity Law, if a distribution determination accounts for an amount mentioned in clause 6.6.1AA, 6.6.1AB or 6.11.1(ba) of the Rules, the distribution determination is not a reviewable regulatory decision to the extent it accounts for that amount.

(2) After regulation 9(1)

*insert*

(1A) However, a determination that, under clause 6.6.1AA of the Rules, is taken to have been made under clause 6.6.1(d) or 6.6.1(g) of the Rules is not a reviewable regulatory decision.

(3) Regulation 9, at the end

*insert*

**Note–**

The modifications to this regulation expire on 1 July 2024.

## **Schedule 2 Further modifications to operation of National Electricity Rules**

regulation 8

### **Part 1 Preliminary matters**

#### **1 Rules modified**

This Schedule modifies the operation of the National Electricity Rules with effect from 1 July 2016.

### **Part 2 Continuing modifications**

#### **2 Clause 1.7.1A inserted**

After clause 1.7.1

*insert*

#### **1.7.1A Instruments**

- (a) In an instrument made under the *Rules*:
- (1) a reference to the "National Electricity Law" or "Law" must be regarded as a reference to the National Electricity (NT) Law; and
  - (2) a reference to the "National Electricity Rules" or "Rules" must be regarded as a reference to the National Electricity Rules as defined in section 2(1) of the National Electricity (NT) Law.
- (b) Paragraph (a) applies despite any provision to the contrary in an instrument.

#### **3 Clause 1.8.1 modified**

Clause 1.8.1(b)

*omit*

*of Registered Participants maintained by AEMO*

*insert*

kept by the *Utilities Commission* under section 37 of the *Electricity Reform Act (NT)*

**4 Rule 1.11A heading and clause 1.11A.1 inserted**

After rule 1.11

*insert*

**1.11A Application of Rules in this jurisdiction**

**1.11A.1 Certain provisions of Chapter 11 have no effect**

The provisions of Chapter 11 that are in force on 1 July 2016, other than Parts ZZJ and ZZM and clause 11.86.8, have no effect in this jurisdiction.

**5 Rule 6.0 inserted**

After Chapter 6, Part A, heading

*insert*

**6.0 Operation of Chapter 6 in this jurisdiction**

- (a) This rule applies if a *Distribution Network Service Provider* owns, controls or operates more than one *distribution system* in this jurisdiction.
- (b) Despite any other provision of this Chapter:
  - (1) for all of those *distribution systems* there must be, in respect of a particular *regulatory control period*, only one:
    - (i) draft distribution determination and final distribution determination;
    - (ii) *framework and approach paper*;
    - (iii) *building block proposal* and *building block determination*;
    - (iv) *regulatory proposal*;
    - (v) proposed and final *tariff structure statement*; and
    - (vi) regulatory asset base value; and
  - (2) all of those *distribution systems* must be treated as a single *distribution system* for the purposes of clause 6.5.1 and schedule 6.2.

**6 Clause 6.4.1 modified**

After clause 6.4.1(c)

*insert*

(ca) For the application of these *Rules* in this jurisdiction:

- (1) the *post-tax revenue model* that is in force in the other *participating jurisdictions* on 1 July 2016 is taken:
  - (i) to be the *post-tax revenue model* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been prepared and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraphs (a) and (c) in preparing and *publishing* the *post-tax revenue model*.

**7 Clause 6.4.4 modified**

After clause 6.4.4(e)

*insert*

(ea) For the application of these *Rules* in this jurisdiction:

- (1) the *Shared Asset Guidelines* that are in force in the other *participating jurisdictions* on 1 July 2016 are taken:
  - (i) to be the *Shared Asset Guidelines* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been made and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraph (d) in making and publishing the *Shared Asset Guidelines*.

**8 Clause 6.4.5 modified**

After clause 6.4.5(b)

*insert*

(ba) For the application of these *Rules* in this jurisdiction:

- (1) the *Expenditure Forecast Assessment Guidelines* that are in force in the other *participating jurisdictions* on 1 July 2016 are taken:
  - (i) to be the *Expenditure Forecast Assessment Guidelines* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been developed and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraph (a) in developing and *publishing* the *Expenditure Forecast Assessment Guidelines*.

**9 Rule 6.4A modified**

After rule 6.4A(c)

*insert*

(ca) For the application of these *Rules* in this jurisdiction:

- (1) the *Capital Expenditure Incentive Guidelines* that are in force in the other *participating jurisdictions* on 1 July 2016 are taken:
  - (i) to be the *Capital Expenditure Incentive Guidelines* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been made and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraph (b) in making and *publishing* the *Capital Expenditure Incentive Guidelines*.

**10 Clause 6.5.1 modified**

After clause 6.5.1(d)

*insert*

(da) For the application of these *Rules* in this jurisdiction:

- (1) the *roll forward model* that is in force in the other *participating jurisdictions* on 1 July 2016 is taken:
  - (i) to be the *roll forward model* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been developed and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraphs (b), (d) and (e) in developing and *publishing* the *roll forward model*.

**11 Clause 6.5.2 modified**

After clause 6.5.2(q)

*insert*

(qa) For the application of these *Rules* in this jurisdiction:

- (1) the *Rate of Return Guidelines* that are in force in the other *participating jurisdictions* on 1 July 2016 are taken:
  - (i) to be the *Rate of Return Guidelines* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been made and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraphs (m) and (n) in making and *publishing* the *Rate of Return Guidelines*; and
- (3) despite paragraph (p)(1), the *AER* need only review the *Rate of Return Guidelines* when it is required to review the *Guidelines* in the other *participating jurisdictions*.



**12 Clause 6.5.8 modified**

After clause 6.5.8(d)

*insert*

(da) For the application of these *Rules* in this jurisdiction:

- (1) the *efficiency benefit sharing scheme* that is in force in the other *participating jurisdictions* on 1 July 2016 is taken:
  - (i) to be the *efficiency benefit sharing scheme* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been developed and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraphs (a) and (c) in developing and *publishing* the *efficiency benefit sharing scheme*.

**13 Clause 6.5.8A modified**

After clause 6.5.8A(e)

*insert*

(ea) For the application of these *Rules* in this jurisdiction:

- (1) the *capital expenditure sharing scheme* that is in force in the other *participating jurisdictions* on 1 July 2016 is taken:
  - (i) to be the *capital expenditure sharing scheme* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been developed by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraphs (b), (c) and (d) in developing the *capital expenditure sharing scheme*.

**14 Clause 6.6.2 modified**

After clause 6.6.2(c)

*insert*

(ca) For the application of these *Rules* in this jurisdiction:

- (1) the *service target performance incentive scheme* that is in force in the other *participating jurisdictions* on 1 July 2016 is taken:
  - (i) to be the *service target performance incentive scheme* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been developed and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraphs (a) and (b) in developing and *publishing* the *service target performance incentive scheme*.

**15 Clause 6.6.4 modified**

After clause 6.6.4(a)

*insert*

- (ab) For the purposes of paragraph (a), the *AER* must regard the reference to "the national electricity system" in the national electricity objective stated in section 7 of the Law as including a reference to a local electricity system or all local electricity systems, as the case requires.

**16 Clause 6.6A.1 modified**

Clause 6.6A.1(b)(2)(iii)

*omit, insert*

- (iii) exceeds either \$15 million or 5% of the value of the *annual revenue requirement* for the relevant *Distribution Network Service Provider* for the first year of the relevant *regulatory control period*, whichever is the larger amount;

**17 Rule 6.14A modified**

After rule 6.14A(d)

*insert*

(da) For the application of these *Rules* in this jurisdiction:

- (1) the *Distribution Confidentiality Guidelines* that are in force in the other *participating jurisdictions* on 1 July 2016 are taken:
  - (i) to be the *Distribution Confidentiality Guidelines* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been made and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraphs (a) and (b) in making and *publishing* the *Distribution Confidentiality Guidelines*.

**18 Clause 6.15.3 modified**

After clause 6.15.3(e)

*insert*

(ea) For the application of these *Rules* in this jurisdiction:

- (1) the *Cost Allocation Guidelines* that are in force in the other *participating jurisdictions* on 1 July 2016 are taken:
  - (i) to be the *Cost Allocation Guidelines* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been made and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraphs (a), (b) and (e) in making and *publishing* the *Cost Allocation Guidelines*.

**19 Clause 6.15.4 modified**

Clause 6.15.4(a)

*omit, insert*

- (a) Each *Distribution Network Service Provider* in this jurisdiction must submit to the *AER* for its approval a document setting out its proposed *Cost Allocation Method* within 6 months of being required to do so by the *AER*.

**20 Clause S6.2.1 modified**

(1) Clause S6.2.1(a), at the end

*insert*

However, this clause S6.2.1 does not apply to the establishment of the value of the regulatory asset base for a *distribution system* in this jurisdiction as at the beginning of the *1st regulatory control period*.

**Note:**

See clause S6.2.3A for the establishment of the value of the regulatory asset base for a *distribution system* in this jurisdiction as at the beginning of the *1st regulatory control period*. Also see rule 6.0(b)(2) for the treatment of *distribution systems* in this jurisdiction for the purposes of this schedule.

(2) Clause S6.2.1(b)

*omit*

S6.2.2 and S6.2.3

*insert*

S6.2.3 and S6.2.3A

(3) Before clause S6.2.1(d)(1)

*insert*

(1AA) This paragraph (d) and clause S6.2.2 have no effect in this jurisdiction.

**21 Clause S6.2.3A inserted**

After clause S6.2.3

*insert*

**S6.2.3A Establishment of opening regulatory asset base for distribution system in this jurisdiction for 1st regulatory control period**

**(a) Application of this clause**

This clause applies to the establishment of the value of the regulatory asset base for a *distribution system* in this jurisdiction as at the beginning of the *1st regulatory control period*.

**(b) Roll forward model to comply with this clause**

The values to be used for completing the *roll forward model* must be established in accordance with this clause.

**(c) Previous value of regulatory asset base for distribution system in this jurisdiction**

For paragraph (d), the previous value of the regulatory asset base for all *distribution systems* in this jurisdiction that are owned, controlled or operated by the *Distribution Network Service Provider* mentioned in the table below is as set out in the table:

<b>Jurisdiction</b>	<b><i>Distribution Network Service Provider</i></b>	<b>Regulatory Asset Base (\$m)</b>
Northern Territory	Power and Water Corporation ABN 15 947 352 360	928.34 (as at 1 July 2014 in July 2014 dollars)

**(d) Method of adjustment of value of regulatory asset base**

The value of the regulatory asset base for the *distribution systems* mentioned in paragraph (c) as at the beginning of the first *regulatory year* of the *1st regulatory control period* must be calculated by adjusting the previous value (the **previous value**) of the regulatory asset base for the *distribution systems* as specified in paragraph (c) as follows:

- (1) The previous value of the regulatory asset base must be:
  - (i) increased by the amount of all capital expenditure incurred during the *2014-19 NT regulatory control period* (the **previous control period**), including any

capital expenditure determined for that period under clause 3.2.4(d)(i)(A) of Part B of the *2014 NT Network Price Determination* where the Determination has been amended under clause 3.2.4(d)(iii) of the Determination (regardless of whether such capital expenditure is above or below the forecast capital expenditure for the period that is adopted for the purposes of the Determination (if any) for that period); and

- (ii) reduced by the amount of any capital expenditure that has been recovered by way of a pass through under clause 3.1 of Part B of the *2014 NT Network Price Determination* where the amount of that capital expenditure would otherwise have been included in the value of the regulatory asset base.
- (2) The previous value of the regulatory asset base must be increased by the amount of the estimated capital expenditure approved by the *Utilities Commission* or *AER* for any part of the previous control period for which actual capital expenditure is not available.
  - (3) The previous value of the regulatory asset base must be adjusted for the difference between:
    - (i) the estimated capital expenditure for any part of the *2009-14 NT regulatory control period* or *2014-19 NT regulatory control period* where that estimated capital expenditure has been included in that value; and
    - (ii) the actual capital expenditure for that part of the *2009-14 NT regulatory control period* or *2014-19 NT regulatory control period*.

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.

- (4) The previous value of the regulatory asset base must only be increased by estimated or actual capital expenditure to the extent that all such capital expenditure is properly allocated to the provision of *NT equivalent services* in accordance with the Cost Allocation Methodology (as amended, varied or substituted from time to time) that is the subject of the *Utilities Commission's* final decision referred to in Chapter 5 of Part A of the *2014 NT Network Price Determination*.

- (5) The previous value of the regulatory asset base must be reduced by the amount of depreciation of the regulatory asset base during the previous control period, calculated in accordance with the *2014 NT Network Price Determination*.
- (6) The previous value of the regulatory asset base must be reduced by the disposal value of any asset where that asset has been disposed of during the previous control period.
- (7) The previous value of the regulatory asset base must be reduced by the value of an asset where the asset was previously used to provide *NT equivalent services* but, as a result of the classification of the asset under Part B, the asset is not to be used to provide *standard control services* for the *1st regulatory control period*.
- (8) The previous value of the regulatory asset base may be increased by the value of an asset to which this subparagraph applies to the extent that:
  - (i) the *AER* considers the asset to be reasonably required to achieve one or more of the *capital expenditure objectives*; and
  - (ii) the value of the asset has not been otherwise recovered.

This subparagraph applies to an asset that:

- (i) was not used to provide *NT equivalent services* in the previous control period but, as a result of a change to the classification of a particular service under Part B, is to be used to provide *standard control services* for the *1st regulatory control period*; or
  - (ii) was never previously used to provide *NT equivalent services* but is to be used to provide *standard control services* for the *1st regulatory control period*.
- (e) An increase or reduction in the value of the regulatory asset base under paragraph (d)(7) or (8) is to be based on the portion of the value of the asset properly allocated, or formerly properly allocated, to *NT equivalent services* in accordance with the principles and policies set out in the Cost Allocation Methodology (as amended, varied or substituted from time to time) that is the subject of the *Utilities Commission's* final decision referred to in Chapter 5 of Part A of the *2014 NT Network Price Determination*. The value of the relevant asset is taken to be its value as shown in independently audited and published accounts.

**22 Chapter 10 modified**

- (1) Chapter 10, definitions *Customer, Distribution Network Service Provider, distribution system, Generator, National Electricity Law, national grid, Network Service Provider, Registered Participant, Rules* and *transmission or distribution system*

*omit*

- (2) Chapter 10

*insert (in alphabetical order)*

***1st regulatory control period***

In relation to a *Distribution Network Service Provider* in this jurisdiction, means the first period during which the provider will be or is subject to a control mechanism imposed by a distribution determination, being the period from 1 July 2019 to 30 June 2024.

***2009-14 NT regulatory control period***

The regulatory control period that commenced on 1 July 2009 under the *NT Network Access Code*.

***2014-19 NT regulatory control period***

The regulatory control period that commenced on 1 July 2014 under the *NT Network Access Code*.

***2014 NT Network Price Determination***

The "2014 Network Price Determination" made by the Utilities Commission under the *Utilities Commission Act (NT), Electricity Reform Act (NT)* and Chapter 6 of the *NT Network Access Code* that:

- (a) applies, or applied, from 1 July 2014 to 30 June 2019; and
- (b) because of section 57 of the *Electricity Networks (Third Party Access) Act (NT)*, is, or was, a network pricing determination made under section 6A(1) of that Act,

as amended, varied or substituted from time to time.

***Customer***

A person who:

- (a) holds a licence authorising the selling of electricity under Part 3 of the *Electricity Reform Act (NT)*; but



- (b) does not hold a licence authorising the ownership or operation of an electricity network under that Part.

***Distribution Network Service Provider***

A person who:

- (a) engages in the activity of owning, controlling, or operating a *distribution system*; and
- (b) holds a licence authorising the ownership or operation of an electricity network under Part 3 of the *Electricity Reform Act* (NT).

***distribution system***

Means:

- (a) a *distribution network*, together with the *connection assets* associated with the *distribution network*, which is connected to another *transmission or distribution system*; or
- (b) a *distribution network* that forms part or all of a local distribution system, together with the *connection assets* associated with the *distribution network*.

*Connection assets* on their own do not constitute a *distribution system*.

***Generator***

A person who:

- (a) engages in the activity of owning, controlling or operating a *generating system* that is *connected* to, or who otherwise *supplies* electricity to, a *transmission or distribution system*; and
- (b) holds a licence authorising the generation of electricity under Part 3 of the *Electricity Reform Act* (NT).

***National Electricity Law***

The National Electricity (NT) Law.

***national grid***

Means the sum of:

- (a) all *connected transmission systems* and *distribution systems* within the *participating jurisdictions*; and
- (b) the *distribution systems* in this jurisdiction.

***Network Service Provider***

A *Distribution Network Service Provider*.

***NT equivalent services***

Regulated network access services (as defined in clause 3 of the *NT Network Access Code*) that are designated as direct control services in Table 3.1 of Part A of the *2014 NT Network Price Determination*.

***NT Network Access Code***

The Network Access Code as defined in section 2A(1) of the *Electricity Networks (Third Party Access) Act* (NT).

***Registered Participant***

A Registered participant as defined in the *National Electricity Law*.

***Rules***

The National Electricity Rules as defined in section 2(1) of the *National Electricity Law*.

***transmission or distribution system***

A *transmission system* or a *distribution system*.

***Utilities Commission***

The Utilities Commission of the Northern Territory established by section 5 of the *Utilities Commission Act* (NT).

- (3) Chapter 10, definition *franchise customer*, at the end

*insert*

**Note:**

There are no franchise customers in this jurisdiction.

- (4) Chapter 10, definition *power system*, after "arrangement"

*insert*

or arrangements

**Part 3 Modifications expiring on adoption of National Energy Retail Law**

**23 Clause 1.11A.2 inserted**

After clause 1.11A.1

*insert*

**1.11A.2 Chapters deferred until NERL adopted in this jurisdiction**

Each of the following has no effect in this jurisdiction until the *National Energy Retail Law* is applied as a law of this jurisdiction:

- (a) Chapter 5A; and
- (b) Chapter 6B.

**24 Rule 6.0A inserted**

After rule 6.0

*insert*

**6.0A Application of Part DA in this jurisdiction**

Part DA has no effect in this jurisdiction until the *National Energy Retail Law* is applied as a law of this jurisdiction.

**25 Clause 6.6.1 modified**

(1) Before clause 6.6.1(a1)

*insert*

(aa1) Each of the following has no effect in this jurisdiction until the *National Energy Retail Law* is applied as a law of this jurisdiction:

- (1) paragraph (a1)(4);
- (2) paragraph (c)(6)(iii);
- (3) paragraph (l); and
- (4) paragraph (m).

- (2) Before clause 6.6.1(a1)(1)

*insert*

(1AA) a local event prescribed by the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations*;

- (3) Clause 6.6.1(a1), at the end

*insert*

**Notes:**

See Part 3 of the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations* for modifications to the operation of this clause 6.6.1 in relation to local events.

The modifications to this paragraph expire when the *National Energy Retail Law* is applied as a law of this jurisdiction.

**26 Clause 6.8.2 modified**

Before clause 6.8.2(a)

*insert*

(aa) Paragraph (c)(5A) has no effect in this jurisdiction until the *National Energy Retail Law* is applied as a law of this jurisdiction.

**27 Clause 6.12.1AA inserted**

After rule 6.12, heading

*insert*

**6.12.1AA Application in this jurisdiction**

Clauses 6.12.1(21) and 6.12.3(i) and (j) have no effect in this jurisdiction until the *National Energy Retail Law* is applied as a law of this jurisdiction.

## Part 4 Modifications expiring on 1 July 2029

### 28 Clause S6.1.1 modified

#### (1) Clause S6.1.1(6) and (7)

*omit, insert*

(5A) in the case of a *building block proposal* for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply during the *1st regulatory control period*:

(i) capital expenditure for each of the past years of the *2009-14 NT regulatory control period* and *2014-19 NT regulatory control period*, and the expected capital expenditure for each of the last two years of the *2014-19 NT regulatory control period*, categorised in the same way as for the capital expenditure forecast and separately identifying for each such year:

(A) margins paid or expected to be paid by the *Distribution Network Service Provider* in circumstances where those margins are referable to arrangements that do not reflect arm's length terms; and

(B) expenditure that should have been treated as operating expenditure in accordance with the policy submitted under paragraph (8) for that year; and

(ii) an explanation of any significant variations in the forecast capital expenditure from capital expenditure in the *2009-14 NT regulatory control period* and *2014-19 NT regulatory control period*;

(5B) in the case of a *building block proposal* for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply during the *2nd regulatory control period*:

(i) capital expenditure for each of the past years of the *2014-19 NT regulatory control period* and each of the past *regulatory years* of the *1st regulatory control period*, and the expected capital expenditure for each of the last two *regulatory years* of the *1st regulatory control period*, categorised in the same way as for the capital expenditure forecast and separately identifying for each such year:

(A) margins paid or expected to be paid by the *Distribution Network Service Provider* in circumstances where those margins are referable to arrangements that do not reflect arm's length terms; and

- (B) expenditure that should have been treated as operating expenditure in accordance with the policy submitted under paragraph (8) for that year; and
  - (ii) an explanation of any significant variations in the forecast capital expenditure from capital expenditure in the *2014–19 NT regulatory control period* and *1st regulatory control period*; and
  - (6) in the case of a *building block proposal* for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply after the *2nd regulatory control period* – capital expenditure for each of the past *regulatory years* of the previous and current *regulatory control period*, and the expected capital expenditure for each of the last two *regulatory years* of the current *regulatory control period*, categorised in the same way as for the capital expenditure forecast and separately identifying for each such *regulatory year*:
    - (i) margins paid or expected to be paid by the *Distribution Network Service Provider* in circumstances where those margins are referable to arrangements that do not reflect arm's length terms; and
    - (ii) expenditure that should have been treated as operating expenditure in accordance with the policy submitted under paragraph (8) for that *regulatory year*;
  - (7) in the case of a *building block proposal* for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply after the *2nd regulatory control period* – an explanation of any significant variations in the forecast capital expenditure from historical capital expenditure; and
- (2) Clause S6.1.1, at the end

*insert*

**Note:**

The modifications to this clause expire on 1 July 2029.

**29 Clause S6.1.2 modified**

Clause S6.1.2(7) and (8)

*omit, insert*

(6A) in the case of a *building block proposal* for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply during the *1st regulatory control period*:

- (i) operating expenditure for each of the past years of the *2009-14 NT regulatory control period* and *2014-19 NT regulatory control period*, and the expected operating expenditure for each of the last two years of the *2014-19 NT regulatory control period*, categorised in the same way as for the operating expenditure forecast; and
- (ii) an explanation of any significant variations in the forecast operating expenditure from operating expenditure in the *2009-14 NT regulatory control period* and *2014-19 NT regulatory control period*;

(6B) in the case of a *building block proposal* for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply during the *2nd regulatory control period*:

- (i) operating expenditure for each of the past years of the *2014-19 NT regulatory control period* and each of the past *regulatory years* of the *1st regulatory control period*, and the expected operating expenditure for each of the last two *regulatory years* of the *1st regulatory control period*, categorised in the same way as for the operating expenditure forecast; and
- (ii) an explanation of any significant variations in the forecast operating expenditure from operating expenditure in the *2014-19 NT regulatory control period* and the *1st regulatory control period*;

(7) in the case of a *building block proposal* for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply after the *2nd regulatory control period* – operating expenditure for each of the past *regulatory years* of the previous and current *regulatory control period*, and the expected operating expenditure for each of the last two *regulatory years* of the current *regulatory control period*, categorised in the same way as for the operating expenditure forecast;

- (8) in the case of a *building block proposal* for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply after the *2nd regulatory control period* – an explanation of any significant variations in the forecast operating expenditure from historical operating expenditure.

**Note:**

The modifications to this clause expire on 1 July 2029.

**30 Clause S6.2.1 modified**

After clause S6.2.1(e)(3)

*insert*

(3A) However, in calculating the value of the regulatory asset base for a *distribution system* in this jurisdiction as at the beginning of the first *regulatory year* of the *2nd regulatory control period*, the previous value of the regulatory asset base must be adjusted for the difference between:

- (i) the estimated capital expenditure for any part of the *2014-19 NT regulatory control period* or *1st regulatory control period* where that estimated capital expenditure has been included in that value; and
- (ii) the actual capital expenditure for that part of the *2014-19 NT regulatory control period* or *1st regulatory control period*.

This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.

**Note:**

This subparagraph expires on 1 July 2029.



**31 Clause S6.2.2A modified**

After clause S6.2.2A(a1)

*insert*

- (a2) However, for a decision on the regulatory asset base for a *distribution system* in this jurisdiction as at the commencement of the *2nd regulatory control period*, "**review period**" means only the previous control period (excluding the last two *regulatory years* of that previous control period).

**Note:**

This paragraph expires on 1 July 2029.

**32 Chapter 10 modified**

Chapter 10

*insert (in alphabetical order)*

***2nd regulatory control period***

In relation to a *Distribution Network Service Provider* in this jurisdiction, means the second period during which the provider will be or is subject to a control mechanism imposed by a distribution determination, being the period from 1 July 2024 to 30 June 2029.

**Note:**

This definition expires on 1 July 2029.

**Part 5 Modifications expiring on 1 July 2024**

**33 Clause 6.2.5 modified**

- (1) Clause 6.2.5(c)(3)

*omit, insert*

(2A) for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply during the *1st regulatory control period* – the regulatory arrangements in the *2014 NT Network Price Determination*; and

(3) for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply after the *1st regulatory control period* – the regulatory arrangements (if any) applicable to the relevant service immediately before the commencement of the distribution determination; and

(2) Clause 6.2.5(c), at the end

*insert*

**Note:**

The modifications to this paragraph expire on 1 July 2024.

(3) Clause 6.2.5(d)(3)

*omit, insert*

(2A) for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply during the *1st regulatory control period* – the regulatory arrangements in the *2014 NT Network Price Determination*); and

(3) for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply after the *1st regulatory control period* – the regulatory arrangements (if any) applicable to the relevant service immediately before the commencement of the distribution determination; and

(4) Clause 6.2.5(d), at the end

*insert*

**Note:**

The modifications to this paragraph expire on 1 July 2024.

**34 Clause 6.4.3 modified**

(1) Clause 6.4.3(a)(6)

*omit, insert*

(5A) for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply during the *1st regulatory control period* – the other revenue increments or decrements (if any) for that year arising from the application of a control mechanism in the *2014–19 NT regulatory control period* – see paragraph (b)(5A); and

(6) for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply after the *1st regulatory control period* – the other revenue increments or decrements (if any) for that year arising from the application of a control mechanism in the previous *regulatory control period* – see paragraph (b)(6);

- (2) Clause 6.4.3(a), at the end

*insert*

**Note:**

The modifications to this paragraph expire on 1 July 2024.

- (3) After clause 6.4.3(b)(5)

*insert*

(5A) the other revenue increments or decrements referred to in paragraph (a)(5A) are those that are to be carried forward to the *1st regulatory control period* as a result of the application of a control mechanism in the *2014–19 NT regulatory control period* and are apportioned to the relevant year under the distribution determination for the *1st regulatory control period*;

**Note:**

This subparagraph expires on 1 July 2024.

**35 Clause 6.6.1 modified**

- (1) Clause 6.6.1(j)(7A), after "6.6.1"

*insert*

or clause 6.6.1AB

- (2) After clause 6.6.1(j)(7A)

*insert*

**Note:**

The modification to this subparagraph expires on 1 July 2024.

**36 Clauses 6.6.1AA and 6.6.1AB inserted**

After clause 6.6.1

*insert*

**6.6.1AA Cost pass through – deemed determinations**

- (a) On and from 1 July 2019, an amount that:

(1) under clause 3.1.3(a)(ii) of Part B of the *2014 NT Network Price Determination*, the AER had determined, on or after 1 July 2018, should be passed through to network users in a

*regulatory year of the 1st regulatory control period or a subsequent regulatory control period; or*

- (2) under clause 3.1.3(d)(ii) of Part B of the *2014 NT Network Price Determination*, should be passed through to network users in a *regulatory year of the 1st regulatory control period or a subsequent regulatory control period* as a result of the *AER*, on or after 1 July 2018, failing to make a determination within the prescribed period,

is taken to be an amount determined under clause 6.6.1(d)(2).

- (b) On and from 1 July 2019, an amount that, under clause 3.1.5(a)(ii)(B) of Part B of the *2014 NT Network Price Determination*, the *AER* had determined, on or after 1 July 2018, should be passed through to network users in a *regulatory year of the 1st regulatory control period or a subsequent regulatory control period* is taken to be an amount determined under clause 6.6.1(g)(2)(ii).

**Note:**

This clause expires on 1 July 2024.

### **6.6.1AB Cost pass through – NT events**

- (a) A *Distribution Network Service Provider* may seek the approval of the *AER* to pass through to *Distribution Network Users* a *positive pass through amount* in relation to an *NT positive change event*.

**Note:**

See Part 3 of the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations* for modifications to the operation of this clause 6.6.1AB in relation to certain *NT positive change events*.

- (b) The *AER* may require a *Distribution Network Service Provider* to pass through to *Distribution Network Users* a *negative pass through amount* in relation to an *NT negative change event* as determined by the *AER* under paragraph (g).

#### **Positive pass through**

- (c) To seek the approval of the *AER* to pass through a *positive pass through amount* in relation to an *NT positive change event*, a *Distribution Network Service Provider* must submit to the *AER*, within 90 *business days* after the commencement of the *1st regulatory control period*, a written statement that specifies:

- (1) the details of the *NT positive change event*;
- (2) the date on which the *NT positive change event* occurred;

- (3) the *eligible pass through amount* in respect of that *NT positive change event*;
  - (4) the *positive pass through amount* the *Distribution Network Service Provider* proposes in relation to the *NT positive change event*;
  - (5) the amount of the *positive pass through amount* that the *Distribution Network Service Provider* proposes should be passed through to *Distribution Network Users* in each *regulatory year* after the *NT positive change event* occurred;
  - (6) evidence:
    - (i) of the actual and likely increase in costs referred to in subparagraph (3);
    - (ii) that such costs occur solely as a consequence of the *NT positive change event*; and
  - (7) such other information as may be required under any relevant *regulatory information instrument*.
- (d) If the *AER* determines that an *NT positive change event* has occurred in respect of a statement under paragraph (c), the *AER* must determine:
- (1) the *approved pass through amount*; and
  - (2) the amount of that *approved pass through amount* that should be passed through to *Distribution Network Users* in each *regulatory year* after the *NT positive change event* occurred,
- taking into account the matters referred to in paragraph (j).
- (e) Subject to paragraph (k1), if the *AER* does not make the determinations referred to in paragraph (d) within 40 *business days* from the later of the date it receives the *Distribution Network Service Provider's* statement and accompanying evidence under paragraph (c), and the date it receives any additional information required under paragraph (e1), then, on the expiry of that period, the *AER* is taken to have determined that:
- (1) the *positive pass through amount* as proposed in the *Distribution Network Service Provider's* statement under paragraph (c) is the *approved pass through amount* in respect of that *NT positive change event*; and
  - (2) the amount of that *positive pass through amount* that the *Distribution Network Service Provider* proposes in its

statement under paragraph (c) should be passed through to *Distribution Network Users* in each *regulatory year* after the *NT positive change event* occurred, is the amount that should be so passed through in each such *regulatory year*.

- (e1) A *Distribution Network Service Provider* must provide the *AER* with such additional information as the *AER* requires for the purpose of making a determination under paragraph (d) within the time specified by the *AER* in a notice provided to the *Distribution Network Service Provider* by the *AER* for that purpose.

**Negative pass through**

- (f) A *Distribution Network Service Provider* must submit to the *AER*, within 90 *business days* after the later of the commencement of the *1st regulatory control period* and the date on which the provider becomes aware of the occurrence of an *NT negative change event* for the provider, a written statement that specifies:
- (1) the details of the *NT negative change event*;
  - (2) the date on which the *NT negative change event* occurred;
  - (3) the costs in the provision of *direct control services* and *NT equivalent services* that the *Distribution Network Service Provider* has saved and is likely to save as a result of the *negative change event* until the end of the *1st regulatory control period*;
  - (4) the aggregate amount of those saved costs that the *Distribution Network Service Provider* proposes should be passed through to *Distribution Network Users*;
  - (5) the amount of the costs referred to in subparagraph (4) the *Distribution Network Service Provider* proposes should be passed through to *Distribution Network Users* in each *regulatory year* after the *NT negative change event* occurred; and
  - (6) such other information as may be required under any relevant *regulatory information instrument*.
- (f1) If the occurrence of the *NT negative change event* is not notified by the *Distribution Network Service Provider* to the *AER* under paragraph (f) then, as soon as is reasonably practicable and before making a determination referred to in paragraph (g), the *AER* must notify the *Distribution Network Service Provider* of the occurrence of that *NT negative change event*.

- (g) If an *NT negative change event* occurs (whether or not the occurrence of that *NT negative change event* is notified by the *Distribution Network Service Provider* to the *AER* under paragraph (f)) and the *AER* determines to impose a requirement on the provider in relation to that *NT negative change event* as described in paragraph (b), the *AER* must determine:
- (1) the *required pass through amount*; and
  - (2) taking into account the matters referred to in paragraph (j):
    - (i) how much of that *required pass through amount* should be passed through to *Distribution Network Users* (the "*negative pass through amount*"); and
    - (ii) the amount of that *negative pass through amount* that should be passed through to *Distribution Network Users* in each *regulatory year* after the *NT negative change event* occurred.
- (g1) Subject to paragraph (k1), if the *AER* does not make the determinations referred to in paragraph (g) within 40 *business days* from:
- (1) where the *Distribution Network Service Provider* notifies the *AER* of the occurrence of the *NT negative change event* under paragraph (f) – the later of the date the *AER* receives the *Distribution Network Service Provider's* statement under paragraph (f) and the date the *AER* receives any information required by the *AER* under paragraph (h); or
  - (2) where the *Distribution Network Service Provider* does not notify the *AER* of the occurrence of the *NT negative change event* under paragraph (f) – the later of the date the *AER* notifies the *Distribution Network Service Provider* under paragraph (f1) and the date the *AER* receives any information required by the *AER* under paragraph (h),
- then the *AER* is taken to have determined that the *required pass through amount* is zero.
- (h) A *Distribution Network Service Provider* must provide the *AER* with such information as the *AER* requires for the purpose of making a determination under paragraph (g) within the time specified by the *AER* in a notice provided to the *Distribution Network Service Provider* by the *AER* for that purpose.

### Consultation

- (i) Before making a determination under paragraph (d) or (g), the *AER* may consult with the relevant *Distribution Network Service Provider* and such other persons as the *AER* considers appropriate, on any matters arising out of the relevant *NT positive change event* or *NT negative change event* the *AER* considers appropriate.

### Relevant factors

- (j) In making a determination under paragraph (d) or (g) in respect of a *Distribution Network Service Provider*, the *AER* must take into account:
  - (1) the matters and proposals set out in any statement given to the *AER* by the *Distribution Network Service Provider* under paragraph (c) or (f); and
  - (2) in the case of an *NT positive change event*, the increase in costs in the provision of *direct control services* or *NT equivalent services* that, as a result of the *NT positive change event*, the *Distribution Network Service Provider* has incurred and is likely to incur until the end of the *1st regulatory control period*;
  - (2A) in the case of a *NT negative change event*, the costs in the provision of *direct control services* or *NT equivalent services* that, as a result of the *NT negative change event*, the *Distribution Network Service Provider* has saved and is likely to save until the end of the *1st regulatory control period*;
  - (3) in the case of an *NT positive change event*, the efficiency of the *Distribution Network Service Provider's* decisions and actions in relation to the risk of the *NT positive change event*, including whether the *Distribution Network Service Provider* has failed to take any action that could reasonably be taken to reduce the magnitude of the *eligible pass through amount* in respect of that *NT positive change event* and whether the *Distribution Network Service Provider* has taken or omitted to take any action where such action or omission has increased the magnitude of the amount in respect of that *NT positive change event*;
  - (4) the time cost of money based on the *allowed rate of return* for the *Distribution Network Service Provider* for the *1st regulatory control period*;



- (5) the need to ensure that the *Distribution Network Service Provider* only recovers any actual or likely increment in costs under this paragraph (j) to the extent that such increment is solely as a consequence of an *NT positive change event* or *NT negative change event*;
- (6) in the case of a tax change event (as defined in Part B of the *2014 NT Network Price Determination*), any change in the way another *tax* is calculated, or the removal or imposition of another *tax*, which, in the *AER's* opinion, is complementary to the tax change event concerned;
- (7) whether the costs of the *NT positive change event* or *NT negative change event* have already been factored into the calculation of the *Distribution Network Service Provider's annual revenue requirement* for the *1st regulatory control period* or will be factored into the calculation of the *Distribution Network Service Provider's annual revenue requirement* for a subsequent *regulatory control period*;
- (7A) the extent to which the costs that the *Distribution Network Service Provider* has incurred and is likely to incur are the subject of a previous determination made by the *AER* under this clause or clause 6.6.1; and
- (8) any other factors that the *AER* considers relevant.

**Extension of time limits**

- (k) The *AER* must, by written notice to a *Distribution Network Service Provider*, extend a time limit fixed in paragraph (c) or (f) if the *AER* is satisfied that the difficulty of assessing or quantifying the effect of the relevant *NT positive change event* or *NT negative change event* justifies the extension.
- (k1) If the *AER* is satisfied that the making of a determination under paragraph (d) or (g) involves issues of such complexity or difficulty that the time limit fixed in paragraph (e) or (g1) should be extended, the *AER* may extend that time limit by a further period of up to 60 *business days*, provided that it gives written notice to the *Distribution Network Service Provider* of that extension not later than 10 *business days* before the expiry of that time limit.
- (k2) If the *AER* extends a time limit under paragraph (k1), it must make available on its website a notice of that extension as soon as is reasonably practicable.
- (k3) Subject to paragraph (k6), if the *AER* gives a written notice to the *Distribution Network Service Provider* stating that it requires information from an *Authority* in order to make a determination

under paragraph (d) or (g) then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Distribution Network Service Provider* and when the *AER* receives that information from that *Authority* is to be disregarded.

- (k4) Subject to paragraph (k6), if the *AER* gives a written notice to the *Distribution Network Service Provider* stating that, in order to make a determination under paragraph (d) or (g), it requires information that it anticipates will be made publicly available by a judicial body or royal commission then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Distribution Network Service Provider* and when that information is made publicly available is to be disregarded.
- (k5) Where the *AER* gives a notice to the *Distribution Network Service Provider* under paragraph (k3) or (k4), it must:
- (1) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (k3) or (k4), as the case may be, has commenced;
  - (2) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (k3) or (k4), as the case may be, has ended; and
  - (3) if the information specified in that notice is required from an *Authority*, promptly request that information from the relevant *Authority*.
- (k6) Paragraphs (k3) and (k4) do not apply if the *AER* gives the notice specified in those paragraphs to the *Distribution Network Service Provider* later than 10 *business days* before the expiry of the time limit fixed in paragraphs (e) or (g1).

**Note:**

This clause expires on 1 July 2024.

**37 Clause 6.18.5 modified**

After clause 6.18.5(h)

*insert*

- (ha) However, for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply or applies during the *1st regulatory control period*, the reference in paragraph (h) to "the previous *regulatory year*" must be regarded as a reference to "the year that precedes the relevant *regulatory year* of

the *1st regulatory control period* (which may be the last year of the *2014-19 NT regulatory control period*)".

**Note:**

This paragraph expires on 1 July 2024.

**38 Chapter 10 modified**

- (1) Chapter 10, definitions *approved pass through amount* and *negative pass through amount*

*omit*

- (2) Chapter 10

*insert (in alphabetical order)*

***approved pass through amount***

In respect of a *positive change event* for a *Transmission Network Service Provider*:

- (a) the amount which the *AER* determines should be passed through to *Transmission Network Users* under clause 6A.7.3(d)(2); or
- (b) the amount which the *AER* is taken to have determined under clause 6A.7.3(e)(1),

as the case may be.

In respect of a *positive change event* or *NT positive change event* for a *Distribution Network Service Provider*:

- (a) the amount the *AER* determines should be passed through to *Distribution Network Users* under clause 6.6.1(d)(2) or clause 6.6.1AB(d)(2); or
- (b) the amount the *AER* is taken to have determined under clause 6.6.1(e)(1) or 6.6.1AB(e)(1),

as the case may be.

**Note:**

The modification to this definition expires on 1 July 2024.

***negative pass through amount***

In respect of a *negative change event* for a *Transmission Network Service Provider*, an amount that is not greater than a *required pass through amount* as determined by the *AER* under clause 6A.7.3(g).

In respect of a *negative change event* or *NT negative change event* for a *Distribution Network Service Provider*, an amount that is not greater than a *required pass through amount* as determined by the *AER* under clause 6.6.1(g) or 6.6.1AB(g).

**Note:**

The modification to this definition expires on 1 July 2024.

***NT negative change event***

A negative change event (as defined in Part B of the *2014 NT Network Price Determination*) for a *Distribution Network Service Provider*:

- (a) that occurred during the *2014-19 NT regulatory control period*; and
- (b) in relation to which, on or before 30 June 2019, a determination had not been made under clause 3.1.5(a) of Part B of the *2014 NT Network Price Determination* and the time for making it had not expired.

**Note:**

This definition expires on 1 July 2024.

***NT positive change event***

A positive change event (as defined in Part B of the *2014 NT Network Price Determination*) for a *Distribution Network Service Provider*:

- (a) that occurred during the *2014-19 NT regulatory control period*; and
- (b) in relation to which, on or before 30 June 2019, either:
  - (i) a statement had not been submitted under clause 3.1.2 of Part B of the *2014 NT Network Price Determination* and the time fixed for submitting it had not expired; or
  - (ii) a statement had been submitted under clause 3.1.2 of Part B of the *2014 NT Network Price Determination* but a determination had not been made under clause 3.1.3(a) of Part B of the *Determination* and the time for making it had not expired.

**Note:**

This definition expires on 1 July 2024.

- (3) Chapter 10, definition *eligible pass through amount*, at the end

*insert*

In respect of an *NT positive change event* for a *Distribution Network Service Provider*, the increase in costs in the provision of *direct control services* or *NT equivalent services* that, as a result of that *NT positive change event*, the *Distribution Network Service Provider* has incurred and is likely to incur (as opposed to the revenue impact of that event) until the end of the *1st regulatory control period*.

**Note:**

The modification to this definition expires on 1 July 2024.

- (4) Chapter 10, definition *positive pass through amount*

*omit*

6.6.1(c).

*insert*

6.6.1(c) or 6.6.1AB(c).

**Note:**

The modification to this definition expires on 1 July 2024.

- (5) Chapter 10, definition *required pass through amount*, at the end

*insert*

In respect of an *NT negative change event* for a *Distribution Network Service Provider*, the costs in the provision of *direct control services* or *NT equivalent services* that, as a result of the *NT negative change event*, the *Distribution Network Service Provider* has saved and is likely to save (as opposed to the revenue impact of that event) until the end of the *1st regulatory control period*.

**Note:**

The modification to this definition expires on 1 July 2024.

**Part 6 Modifications expiring on 1 July 2019**

**39 Clause 1.11A.3 inserted**

After clause 1.11A.2

*insert*

**1.11A.3 Chapters or Parts deferred until 1 July 2019**

Each of the following has no effect in this jurisdiction until 1 July 2019:

- (a) Chapter 2;
- (b) Chapter 2A;
- (c) Chapter 3;
- (d) Chapter 6A; and
- (e) Parts B, E, G and H of Chapter 8.

**40 Rule 6.0B inserted**

After rule 6.0A

*insert*

**6.0B Application of other Parts in this jurisdiction**

Parts J, K, L, M and N have no effect in this jurisdiction until 1 July 2019.

**41 Clause 6.8.1 modified**

After clause 6.8.1(e)

*insert*

- (ea) Despite paragraph (e), for a *Distribution Network Service Provider* in this jurisdiction, the *AER* must:
  - (1) after consulting with the *Distribution Network Service Provider* and other persons as the *AER* considers appropriate, make a *framework and approach paper* by 1 August 2017; and
  - (2) give a copy of the paper to the *Distribution Network Service Provider*, and *publish* it, as soon as is reasonably practicable.

**Note:**

This paragraph expires on 1 July 2019.

**42 Clause 6.8.1A modified**

After clause 6.8.1A(b)

*insert*

- (c) Despite paragraph (b), for a distribution determination for a *Distribution Network Service Provider* in this jurisdiction that will apply during the *1st regulatory control period*, the provider must submit the information referred to in paragraph (a) on or before 1 July 2017.

**Note:**

This paragraph expires on 1 July 2019.

**43 Clause 6.10.1 modified**

After clause 6.10.1(b)

*insert*

- (ba) In addition, if the draft distribution determination will apply to a *distribution system* in this jurisdiction during the *1st regulatory control period*, the *AER* must have regard to:

- (1) any amount that, under clause 3.1.3(a)(ii) or 3.1.5(a)(ii)(B) of Part B of the *2014 NT Network Price Determination*, the *AER* determined, before 1 July 2018, should be passed through to network users in a *regulatory year* of the *1st regulatory control period* or a subsequent *regulatory control period*; and
- (2) any amount that, under clause 3.1.3(d)(ii) of Part B of the *2014 NT Network Price Determination*, should be passed through to network users in a *regulatory year* of the *1st regulatory control period* or a subsequent *regulatory control period* as a result of the *AER* failing, before 1 July 2018, to make a determination within the prescribed period.

**Note:**

This paragraph expires on 1 July 2019.

**44 Clause 6.11.1 modified**

After clause 6.11.1(b)

*insert*

(ba) In addition, if the distribution determination will apply to a *distribution system* in this jurisdiction during the *1st regulatory control period*, the *AER* must have regard to:

- (1) any amount that, under clause 3.1.3(a)(ii) or 3.1.5(a)(ii)(B) of Part B of the *2014 NT Network Price Determination*, the *AER* determined, before 1 July 2018, should be passed through to network users in a *regulatory year* of the *1st regulatory control period* or a subsequent *regulatory control period*; and
- (2) any amount that, under clause 3.1.3(d)(ii) of Part B of the *2014 NT Network Price Determination*, should be passed through to network users in a *regulatory year* of the *1st regulatory control period* or a subsequent *regulatory control period* as a result of the *AER* failing, before 1 July 2018, to make a determination within the prescribed period.

**Note:**

This paragraph expires on 1 July 2019.

**45 Clause 6.18.9 modified**

Before clause 6.18.9(a)

*insert*

(aa) Paragraph (a)(3) has no effect in this jurisdiction until 1 July 2019.

**46 Rule 6.27A inserted**

After rule 6.27

*insert*

**6.27A Application in this jurisdiction**

(a) Despite rule 6.27, an *annual benchmarking report published* before 1 January 2018 must not relate to a *Distribution Network Service Provider* in this jurisdiction.



- (b) For an *annual benchmarking report* that is to be *published* between 1 January 2018 and 30 June 2019, the reference in rule 6.27(a) to "*direct control services*" must, in relation to *Distribution Network Service Providers* in this jurisdiction, be regarded as a reference to "*NT equivalent services*".

**Note:**

This rule expires on 1 July 2019.

**47 Clause S6.2.2B modified**

Before clause S6.2.2B(a)

*insert*

- (aa) Paragraphs (b) and (c) have no effect in this jurisdiction until 1 July 2019.

**Part 7 Modification expiring on 1 July 2017**

**48 Clause 1.11A.4 inserted**

After clause 1.11A.3

*insert*

**1.11A.4 Chapters deferred until 1 July 2017**

Each of the following has no effect in this jurisdiction until 1 July 2017:

- (a) Chapter 4;
- (b) Chapter 5; and
- (c) Chapter 7.

## Part 8 Modification expiring on 1 December 2016

### 49 Clause 6.6.3 modified

After clause 6.6.3(d)

*insert*

(da) For the application of these *Rules* in this jurisdiction:

- (1) the *demand management and embedded generation connection incentive scheme* that is in force in the other *participating jurisdictions* on 1 July 2016 is taken:
  - (i) to be the *demand management and embedded generation connection incentive scheme* in force in this jurisdiction (subject to any amendment or replacement under these *Rules*); and
  - (ii) to have been developed and *published* by the *AER* on 1 July 2016; and
- (2) the *AER* is taken to have complied with the requirements of paragraphs (a) and (b) in developing and *publishing* the *demand management and embedded generation connection incentive scheme*.

**Note:**

This paragraph expires on 1 December 2016.

## **Schedule 3 Further modifications to operation of National Electricity Rules commencing on 1 December 2016**

regulation 9

### **Part 1 Preliminary matters**

#### **1 Rules modified**

This Schedule modifies the operation of the National Electricity Rules with effect from 1 December 2016.

### **Part 2 Continuing modification**

#### **2 Clause 6.6.3 modified**

Clause 6.6.3(c)(3), after "*market*"

*insert*

, or the Northern Territory,

### **Part 3 Modification expiring on 1 July 2017**

#### **3 Chapter 10 modified**

Chapter 10, definition *network option*

*omit, insert*

#### ***network option***

A means by which an *identified need* can be fully or partly addressed by expenditure on a transmission asset or a distribution asset which is undertaken by a *Network Service Provider*.

For the purposes of this definition:

- (a) **transmission asset** means the apparatus, equipment and plant, including transmission lines and substations of a transmission system; and

- (b) **distribution asset** means the apparatus, equipment and plant, including distribution lines, substations and sub-transmission lines, of a distribution system.

**Note:**

The modification to this definition expires on 1 July 2017.

## ENDNOTES

### 1

### KEY

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

### 2

### LIST OF LEGISLATION

***National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016 (SL No. 17, 2016)***

Notified	27 April 2016
Commenced	r 9 and sch 3: 1 December 2016; rem:1 July 2016 (r 2)