

## Part F: Transport

### I Developing the service component of transmission contracts in order to facilitate decisions to enhance and replace transmission assets

#### 1 Introductory rules

##### 1.1 Compliance with this Part

**Transmission providers**, including **Transpower**, and **transmission purchasers**, including **Transpower customers** are **members** of Part F, which, for the **avoidance** of doubt includes all of sections I, II and III.

##### 1.2 Contents of this section

This section of the **rules** contains procedures for developing **service definitions**, **service measures** and **service levels** relating to current **transmission services** provided by **Transpower** to **Transpower customers**.

This section also specifies an annual cycle, conducted by **Transpower** and **Transpower customers**, to expose and debate the assumptions underlying **Transpower's** forecasts and the investment options raised in a **Statement of Investment Opportunities**, and culminating in a **Transpower** service delivery plan.

##### 1.3 Application of this section

The rules in this section I of part F apply to **Transpower** and to **Transpower customers**.

##### 1.4 Steps completed prior to Part F commencing

###### 1.4.1 *Determining service definitions and service measures*

If, prior to the rules in Part F commencing, **Transpower** and **Transpower customers** agree and complete a process equivalent to rule 2 for determining the set of **service definitions** and **service measures**, then immediately upon the rules in Part F commencing **Transpower** and the **Transpower customers** shall vote on a **resolution** conducted as if it was a rule change under rule

1.5.1 to approve or reject the set of **service definitions** and **service measures**.

#### **1.4.2 Outcome of resolution**

If the set of **service definitions** and **service measures** is approved under rule 1.4.1, then the steps completed by **Transpower** and **Transpower customers** shall be deemed to have been completed under these **rules**. If the set of **service definitions** and **service measures** is not approved under rule 1.4.1, then, subject to rule 1.4.5, **Transpower** and **Transpower customers** must undertake all processes contained in rule 2.

#### **1.4.3 Determining service definitions and service measures relevant to each Transpower customer**

**Transpower** and **Transpower customers** agree a process equivalent to rule 3 for determining **service definitions** and **service measures** and **Transpower** and the relevant **Transpower customer** complete that process, then the determined **service definitions** and **service measures** shall be deemed to have been determined in accordance with rule 3.

#### **1.4.4 Determination of service levels**

If, prior to the rules in Part F commencing, **Transpower** and **Transpower customers** agree a process equivalent to rule 4 for determining **service levels** and **Transpower** and the relevant **Transpower customer** complete that process, then the determined **service levels** shall be deemed to have been determined in accordance with rule 4.

#### **1.4.5 Partial completion of steps**

If **Transpower** and the **Transpower customer** have completed some steps equivalent to those described in rules 2, 3 or 4 for determining **service definitions**, **service measures** and **service levels**, but rule 1.4.2, 1.4.3 or 1.4.4 does not apply (as the case may be) then the **Board** may deem those steps to have been completed under these **rules**.

### **1.5 Changing the rules in section I of part F**

#### **1.5.1 Process**

Subject to rule 1.5.2, the rules in this section I of part F may only be changed by a **resolution** of **Transpower** and **Transpower customers** voting in accordance with the process set out in rule 4 of section IV of Part A and the voting rights contained in schedules A5 and A6, or by the **Board** under rule 1.9 of section IV of Part A.

### **1.5.2 Changing rule 1**

This rule 1 may only be changed by a **resolution** passed in accordance with the voting processes set out in rule 2 of section IV of part A.

## **1.6 Fees in part F**

Pursuant to schedule A7, the **Board** will attribute the total fee payable by the members of part F and may attribute a fee directly to a section of part F.

### **1.6.1 Fees in section I**

The proportion of any fee attributed to section I of part F allocated to each member of section I of part F will be equal to the **member's** share of votes allocated to section I under rule 1.5.2 of schedule A6 as at dates specified under rule 5 of schedule A7.

### **1.6.2 Fees in section II**

The proportion of any fee attributed to section II of part F allocated to each member of section II of part F will be equal to the **member's** share of votes allocated to section II under rule 1.5.2 of schedule A6 as at dates specified under rule 5 of schedule A7.

### **1.6.3 Fees in section III**

The proportion of any fee attributed to section III of part F allocated to each **member** of section III of part F will be equal to the **member's** share of votes allocated to section III under rule 1.5.2 of schedule A6 as at dates specified under rule 5 of schedule A7.

### **1.6.4 Fees not allocated to sections**

Any cost or fee allocated by the **Board** to part F that is not covered by rules 4.1 4.3 will be allocated under this rule 4.4. The proportion allocated to each **member** of part F will be equal to the **member's** share of total votes across all sections of part F allocated under rule 1.5.2 of schedule A6 as at dates specified under rule 5 of schedule A7.

## **2 Developing service definitions and service measures**

### **2.1 Transpower to propose service definitions and service measures**

Within 2 months of the **rules** coming into effect, **Transpower** will provide to the **Board** proposed **service definitions** and **service measures** for the **transmission services**

it provides to **Transpower customers**. The **Board** will refer the proposal to a **working group** established in accordance with rule 2.4.

## 2.2 Board to publish proposal

Within 2 **business days** of receiving the proposed **service definitions** and **service measures** referred to in rule 2.1, the **Board** must **publish** the proposal on its website and invite submissions on the proposed **service definitions** and **service measures** to be made by any person to the **working group** established in accordance with rule 2.4.

## 2.3 Submissions

Any person may make submissions on the proposed **service definitions** and **service measures published** by the **Board** under rule 2.2 or submit alternative proposed **service definitions** or **service measures**. Such submissions are to be in writing and must be submitted to the **working group** established in accordance with rule 2.4 within 20 **business days** of the date on which the proposal is first **published** by the **Board** in accordance with rule 2.2.

## 2.4 Membership and voting entitlements of the working group

The membership and voting entitlements of the **working group** to consider **service definitions** and **service measures** will be established in accordance with schedule A3, except that:

### 2.4.1 Chair

There will be a chairperson who will be appointed in accordance with rule 2.5, who may not vote and who will act as a mediator at meetings of the **working group**;

### 2.4.2 *Transpower may appoint 50% of remaining members*

**Transpower** may appoint up to 50% of the remaining members of that **working group**, where the remaining members means the maximum number of members that the working group could have as determined by the **Board** in accordance with Schedule A3 less one. The members of the **working group** appointed by **Transpower** will have, in total, 50% of the votes; and

### 2.4.3 *Transpower customers to nominate other 50% of members*

The other 50% of the remaining members of that **working group** will be selected from persons nominated by **Transpower customers** in accordance with schedule A3. If **Transpower** elects to appoint less than 50% of the remaining members of the **working group**, the number of members that may be appointed from the persons nominated by **Transpower customers** shall be determined as if **Transpower** had appointed the maximum number of members it was entitled to appoint under rule 2.4.2. The members of the

**working group** appointed from the persons nominated by **Transpower customers** shall have, in total, 50% of the votes.

## 2.5 Chairperson

The chairperson will be nominated by the **Board** and notified to the other members. A majority of the members of the **working group** appointed by **Transpower** or a majority of the members of the **working group** nominated by **Transpower customers** may object to the **Board's** nominee. Such an objection must be made to the **Board** in writing before the first meeting of the **working group**. If such an objection is made, another nomination will be made by the **Board** in accordance with this rule 2.5. This process will continue until a nomination is made in respect of whom there are no objections before the first meeting of the **working group**. That nominee will be deemed to be the appointed chairperson.

## 2.6 Working group to recommend definitions and measures

The **working group** set up under rule 2.4 will consider the **service definitions** and **service measures** proposed by **Transpower** and any written submissions received under rule 2.3, and will prepare a report recommending to **Transpower** and **Transpower customers** a set of **service definitions** and **service measures** that:

### 2.6.1 *Meaningful to both Transpower and Transpower customers*

Are meaningful to both **Transpower** and **Transpower customers**;

### 2.6.2 *Consistent with other rules and legally effective*

Are consistent with other rules and would be legally effective; and

### 2.6.3 *Include existing service definitions or measures*

Include **service definitions** and **service measures** which are included in existing bilateral contracts between **Transpower** and **Transpower customers** where those bilateral contracts have been notified to the **working group** by **Transpower** or a **Transpower customer**.

## 2.7 Transpower and its Transpower customers to vote on set of service definitions and service measures

The **Board** will put the set of **service definitions** and **service measures** recommended by the **working group** under rule 2.6 to a **resolution** of **Transpower** and **Transpower customers** conducted as if it was a rule change under rule 1.5.1. The **resolution** will be to either approve or reject the entire set of **service definitions** and **service measures**.

## 2.8 Process for determining the initial set of definitions and measures if Transpower and Transpower customers cannot agree

If the set of **service definitions** and **service measures** is not approved under rule 2.7, then:

### 2.8.1 *Process repeated*

The process set out in rules 2.1 to 2.7 will be repeated.

### 2.8.2 *Working group*

There will be a new **working group** appointed under rule 2.4, although this **working group** may consist of some or all of the same members as the original **working group** considering the proposed **service definitions** and **service measures**.

### 2.8.3 *Second process completed within 2 months*

This second process shall be completed within 2 months of the date of **resolution** under rule 2.7.

### 2.8.4 *Arbitration*

If the set of **service definitions** and **service measures** is not approved under rule 2.8.3, then the **Board** must refer the matter of **service definitions** and **service measures** to arbitration under the Arbitration Act 1996. The **Board** must immediately give notice of that referral on its website and specify in that notice the date on which the notice was first given.

## 2.9 Identity of arbitral tribunal

The arbitral tribunal will, at the **Board's** election, be either the **Board** or an arbitrator (or panel of arbitrators) appointed by the **Board**. The **Board** will make this determination within 20 **business days** of being notified of the second rejection of the **service measures** under rule 2.7, or the lapse of the 2 month period allowed for the second process, (whichever comes first). The **Board** must immediately **publish** its determination, the identity of the arbitral tribunal, and the reasons for its determination on its website.

## 2.10 Arbitration process

Within 10 **business days** of **publishing** the identity of the arbitral tribunal referred to in rule 2.9, the **Board** will **publish** the draft arbitration process on its website, together with its reasons for the draft arbitration process. This will include a terms of reference for arbitration which specifies which of the optional parts of the Arbitration Act 1996 will apply. The draft arbitration process will also state that the determination of the arbitral tribunal must be made in accordance with the principles set out in these **rules**,

and that such determination must be in accordance with rule 2.11. The **Board** will seek submissions from **Transpower** and **Transpower customers** on that process. Such submissions must be provided within **5 business days** of the **Board publishing** the draft arbitration process. Within **10 business days** of **publishing** the draft arbitration process, the **Board** shall **publish** the process for the arbitration and the reasons for its decision.

## **2.11 Decision by arbitral tribunal**

After following the arbitration process determined by the **Board** under rule 2.10, the arbitral tribunal will determine the set of **service definitions** and **service measures** in accordance with the principles set out in these **rules**. The arbitral tribunal must immediately **notify** the **Board** of the **service definitions** and **service measures** determined by it, together with the reasons for such determination. In determining the set of **service definitions** and **service measures**, the arbitral tribunal may either:

### ***2.11.1 Accepting service definitions and service measures proposed by Transpower***

Accept a set of **service definitions** and **service measures** recommended by **Transpower**; or

### ***2.11.2 Accepting service definitions and service measures proposed by non-Transpower members of its working group***

Accept a set of **service definitions** and **service measures** recommended by the majority of the non-**Transpower** representatives, but excluding the chair, of the **working group** formed by the **Board** under rule 2.4.

## **2.12 Approved definitions and measures to be published by the Board**

The **Board** will **publish** on its website the set of **service definitions** and **service measures** approved under rule 2.7 or determined by the arbitral tribunal under rule 2.11 within **5 business days** of such approval or determination. Where such **service definitions** and **service measures** have been determined by the arbitral tribunal under rule 2.11, the **Board** must also **publish** on its website the arbitral tribunal's reasons for the determination.

# **3 Determining service definitions and service measures relevant to each Transpower customer**

## **3.1 Application of agreed service definitions and service measures**

**Transpower** and each **Transpower customer** will meet under rule 3.2 to determine **service definitions** and **service measures** applying to the **transmission services** supplied by **Transpower** to that **Transpower customer**.

### **3.2 Transpower and Transpower customers to meet to determine relevant service definitions and service measures**

**Transpower** will meet with the relevant **Transpower customer** or a group of **Transpower customers** within 20 **business days** of the determination of the set of **service definitions** and **service measures** by **resolution** under rule 2.7 or by arbitration under rule 2.11. **Transpower** and the **Transpower customer** or group of **Transpower customers** will discuss, with the intention of agreeing, the **service definitions** and **service measures** that will apply to the **transmission services** supplied by **Transpower** to that **Transpower customer** or each relevant **Transpower customer** where **Transpower** meets with a group of **Transpower customers**. Prior to entering discussions with **Transpower**, where two or more **Transpower customers** propose to act as a group for the purpose of rules 3 and 4, they shall agree the method by which they will agree on the set of **service definitions** and **service measures**.

### **3.3 Transpower customers may determine initial service definitions and service measures if Transpower and Transpower customers cannot agree**

If **Transpower** and a **Transpower customer** or a group of **Transpower customers**, cannot agree on a the relevant **service definitions** and **service measures** under rule 3.2 within 20 **business days** of the first meeting, the **Transpower customer**, or group of **Transpower customers**, may determine which of the initial set of **service definitions** and **service measures** will apply to the **transmission services** supplied by **Transpower** to the relevant **Transpower customer** or group of **Transpower**.

## **4 Specifying current service levels**

### **4.1 Transpower to propose service levels**

Within 40 **business days** of **service definitions** and **service measures** being determined under rule 3.2 or rule 3.3, **Transpower** will propose to the relevant **Transpower customer** or group of **Transpower customers** the **service level** relevant to each **service measure**.

### **4.2 Transpower and Transpower customer or group of Transpower customers to meet to determine relevant service levels**

Within 20 **business days** of **Transpower** proposing a **service level levels** under rule 4.1, **Transpower** and each relevant **Transpower customer** or group of **Transpower customers** will meet with the intention of agreeing the current **service level** relevant to each **service definition** and **service measure** agreed or determined under rule 3.



#### **4.3 Arbitral tribunal may determine initial service levels if Transpower and Transpower customer or group of transpower customers cannot agree**

If **Transpower** and the **Transpower customer** or group of **Transpower customers** cannot agree on the specification of **service levels** under rule 4.2 within 20 **business days** of the first meeting, either party may refer the matter to arbitration under the Arbitration Act 1996 in accordance with rules 4.4 and 4.5 below.

#### **4.4 Identity of arbitral tribunal**

The **Board** will appoint an arbitrator (or panel of arbitrators) to determine the **service levels** applying to **Transpower** and the **Transpower customer** or group of **Transpower customers** within 20 **business days** of being notified of the lack of agreement, or the lapse of the 20 **business day** period allowed for negotiations. The **Board** must immediately **publish** the identity of the arbitral tribunal on its website.

#### **4.5 Arbitration process**

Within 10 **business days** of **publishing** the identity of the arbitral tribunal referred to in rule 4.4, the **Board** will **publish** the draft arbitration process on its website and the reasons for the decision on the draft arbitration process. This will include a terms of reference for arbitration which specifies which of the optional parts of the Arbitration Act 1996 will apply. The draft arbitration process will also state that the determination of the arbitral tribunal must be made in accordance with the principles set out in these **rules** and that the **service levels** determined by the arbitral tribunal must comply with rule 4.7. The **Board** will seek submissions from **Transpower** and **Transpower customers** on that process. Such submissions must be provided within 5 **business days** of the **Board publishing** the draft arbitration process. Within 10 **business days** of **publishing** the draft arbitration process, the **Board** shall **publish** the process for the arbitration on its website.

#### **4.6 Decision by arbitral tribunal**

After following the arbitration process determined by the **Board** under rule 4.5, the arbitral tribunal will determine the **service levels** relevant to each **service definition** and **service measure** between **Transpower** and the **Transpower customer** or group of **Transpower customers** agreed or determined under rule 3. Such **service levels** must comply with the principles set out in rule 4.7. The arbitral tribunal will **notify** the **Board** of its decision and the reasons for its decision. The **Board** will immediately notify **Transpower** and the relevant **Transpower customer** or group of **Transpower customers** of the decision of the arbitral tribunal and the reasons for such decision.

#### **4.7 Service levels to conform to certain characteristics**

Any **service levels** determined by the arbitral tribunal under rule 4.6:

#### **4.7.1 *Service levels not to be inconsistent***

Must not be inconsistent with any levels of service specified in the relevant contract for **transmission services** between **Transpower** and each relevant **Transpower customer**, where such contract is a written contract;

#### **4.7.2 *Service levels to be ascertained from behaviour***

If there is no written contract, or there are no levels of service specified in the relevant contract for **transmission services** between **Transpower** and each relevant **Transpower customer**, or the levels of service specified in the contract are ambiguous, then **service levels** are to be ascertained from behaviour and practice to date, including by reference to documented policy and procedures; and

#### **4.7.3 *Not expected to require Transpower to invest***

Are not expected to require **Transpower** immediately after the decision and as a result of the decision to invest in new assets, invest in existing assets or alter fundamentally the manner in which it manages or operates the grid.

### **4.8 Service levels of no effect unless incorporated into contract**

The **service levels** determined by the arbitral tribunal are of no effect unless such **service levels** are subsequently incorporated into the contract between **Transpower** and the **Transpower customer**.

### **4.9 Ability of Transpower to invest**

Rule 4.7 and the determination by the arbitral tribunal under rule 4.6 will not limit the ability of **Transpower** to invest to maintain **service levels**.

## **5 Alterations to contracts**

### **5.1 Application of service levels**

A **service level** which has been determined under rule 4 will only apply to contracts for **transmission services** between **Transpower** and the relevant **Transpower customer**. These **service levels** will only apply if:

#### **5.1.1 *Service definitions and service measures determined***

**Service definitions** and **service measures** have been agreed between **Transpower** and the **Transpower customer** under rule 3.2 or the **Transpower customer** has determined **service definitions** and **service**

**measures** under rule 3.3; and

### **5.1.2 *Applicable contract in existence***

At the time when the relevant service levels are determined either:

#### **5.1.2.1 Signed written contract between Transpower and Transpower customer**

There exists a signed written contract for **transmission services** between **Transpower** and the **Transpower customer** which provides for **Transpower** to make available one or more **transmission services**, but in that case, those service levels will apply only if the parties agree in writing that they should; or

#### **5.1.2.2 Posted terms and conditions become contract between Transpower and Transpower customer**

**Transpower** has posted a set of terms and conditions on which it is prepared to make available the particular **transmission services** to that **Transpower customer**, and those terms and conditions have become a contract between **Transpower** and that **Transpower customer**, by the operation of law or by agreement in respect of those particular **transmission services**; and

### **5.1.3 *Confirmed pricing methodology***

A **confirmed pricing methodology** in relation to that **transmission service** has been determined in accordance with section III or the Commerce Commission has made an authorisation under section 57P of the Commerce Act 1986 requiring **Transpower** to use a specified **pricing methodology**;

## **5.2 Existing contracts to be varied**

Where a **service level** applies between **Transpower** and a **Transpower customer** under rule 5.1, the relevant contract for **transmission services** between **Transpower** and the **Transpower customer** will be immediately varied and apply with immediate effect, unless the parties agree to a later date, as follows:

### **5.2.1 *Service definitions, service measures and service levels***

The relevant **service definitions** and **service measures** agreed between **Transpower** and the **Transpower customer** under rule 3.2 or determined by the **Transpower customer** under rule 3.3 and the **service levels** specified under rule 4, will be used in the relevant contract for **transmission services** between **Transpower** and the relevant **Transpower customer** to define the **service definitions, service measures and service levels** in that contract; and

### **5.2.2 Confirmed Pricing Methodology**

The relevant **transmission price**, calculated in accordance with section III, will be the price payable under the relevant contract for **transmission services** between **Transpower** and the relevant **Transpower customer** for the **service definitions**, **service measures** and **service levels**.

### **5.3 Transpower and the Transpower customer shall effect variation**

**Transpower** and the **Transpower customer** shall carry out all acts and enter into all agreements or deeds necessary to give effect to the variation set out in rule 5.2. To avoid doubt, rule 5.2 is intended to be sufficient to effect the variation depending on the terms of the relevant contract between **Transpower** and the **Transpower customer**.

### **5.4 Effect of service levels where not incorporated into a contract**

#### **5.4.1 Service levels not incorporated into contract not enforceable**

Where the **service definitions**, **service measures** and **service levels** are not incorporated into a contract between **Transpower** and the **Transpower customer** under rule 5.2:

##### **5.4.1.1 Service levels not binding**

The **service levels** determined under rule 4 are not binding on **Transpower** or the **Transpower customer** (either contractually or otherwise) and are not enforceable against **Transpower** or the **Transpower customer by either party or by any other person**. **Any failure by Transpower to meet those service levels will not give rise to any recourse against Transpower** are not binding on **Transpower** (either contractually or otherwise) and are not enforceable against **Transpower** by the **Transpower customer** or any other person. Any failure by **Transpower** to meet those **service levels** will not give rise to any recourse against **Transpower**.

##### **5.4.1.2 Evidence is without prejudice**

Any information provided, any evidence given, or any opinion expressed (including the **service levels** agreed or determined) pursuant to, in connection with, or touching upon the process described in rule 4 is without prejudice to any other dispute, arbitration or litigation and neither that information, evidence or opinion, nor the **service level** agreed or determined, may be used in any such other dispute, arbitration or litigation against the party who provided the information, gave the evidence or expressed the opinion.

## 5.5 Expiry of contracts, variation of contracts and service levels

Nothing in this section will prevent or limit the expiration, termination or variation of any contract between **Transpower** and a **Transpower customer**.

## 6 Transpower to develop service delivery plan

### 6.1 Transpower to publish an annual service delivery plan

Each year **Transpower** will prepare and **publish** on its website a draft service delivery plan for achieving over the next 10 years the **service levels** agreed under rule 4.2 or determined under rule 4.3, even if such **service levels** are not incorporated into a contract between **Transpower** and the **Transpower customer** in accordance with rule 5.2. Each draft plan will:

#### 6.1.1 *Set out the relevant underlying assumptions*

Include the assumptions made by **Transpower** in preparing its service delivery plan that are relevant to the on-going achievement of the specified **service levels**;

#### 6.1.2 *Set out indicative transmission prices of achieving the service delivery plan*

Identify indicative **transmission prices** of maintaining the specified **service levels**; and

#### 6.1.3 *Identify where new investment is needed to maintain the service level*

Identify whether any new investment will be needed to maintain the specified **service levels**, and if so, the type and location of such investment proposed by **Transpower**.

### 6.2 Statement of Investment Opportunities

If **Transpower** identifies under rule 6.1.3 new investment is needed to maintain **service levels**, **Transpower** may include in the draft service delivery plan a draft **Statement of Investment Opportunities**. Where such a Statement is included in the draft service delivery plan, this Statement will:

### **6.2.1 Identify options available to Transpower**

Identify the investment options being considered by **Transpower** to maintain the **service levels**. These options may include non-transmission solutions;

### **6.2.2 Specify Transpower's preferred investment option**

Specify **Transpower's** preferred option in relation to the investment options identified under rule 6.2.1;

### **6.2.3 Set out indicative costs of the preferred option**

Provide its best estimate at the time of the cost of its preferred option, and the estimated costs that would be committed at each discrete step in implementing the preferred option. No such estimate will be binding on either **Transpower** or the **Transpower customer**;

### **6.2.4 Set out indicative transmission prices which would result from the preferred option**

Provide its best estimate at the time of the **transmission prices** that would result from its preferred option. No such estimate will be binding on either **Transpower** or the **Transpower customer**; and

### **6.2.5 Specify the dates at which expenditure would be committed**

Specify the dates at which **Transpower** will commit expenditure for each discrete step identified under rule 6.2.3 in implementing its preferred option, unless by the specified date:

#### **6.2.5.1 Transpower customers committed to alternative solutions**

**Transpower** is satisfied that **Transpower customers** have committed to alternative and equivalent solutions; or

#### **6.2.5.2 The contracted service levels have been reduced**

The contracted **service levels** have been reduced or removed, or will be reduced or removed, either as a consequence of negotiation between **Transpower** and the **Transpower customer** or **customers**, provided that **Transpower** must be reasonably satisfied that the need for the investment no longer exists.

## **6.3 Transpower to consider comments on service delivery plan**

**Transpower** will provide **Transpower customers** and other interested parties with an opportunity to scrutinise and comment upon every draft service delivery plan,

including when relevant an opportunity to comment on its draft **Statement of Investment Opportunities**. **Transpower** must have regard to any comments received on its draft service delivery plan when finalising this plan, but will determine the final content of its service delivery plan.

#### **6.4 Transpower will publish final service delivery plan**

**Transpower** will **publish** its final service delivery plan on its website within 5 **business days** of finalising that plan and will immediately **notify Transpower customers** that it has **published** the delivery plan.

#### **6.5 Expenditure committed at pre-specified dates**

If **Transpower** commits irrevocably to expenditure previously identified in the **Statement of Investment Opportunities** on or after the date specified in the final service delivery plan, the value of that asset, for the purposes of determining **transmission prices** will not be reduced if demand for the service provided by the asset reduces during a period of five years from the date at which the asset is commissioned, or where the asset is not commissioned during a period of five years from the date of expenditure, or such other period of time as may be agreed between **Transpower** and the **Transpower customer**. Nothing in this rule limits other reductions in the value of the asset that are properly applied under the **confirmed pricing methodology** for reasons such as there being lower cost modern equivalent assets.

## II Agreeing changes to existing services and supply of new services

### 1 Introductory Rules

#### 1.1 Contents of this section

The rules in this section contain the processes which **transmission purchasers** may use to agree a **service change** to a **transmission service** or a **service that substitutes for transmission**. They also provide for appeals to the **Board** against a decision to proceed or not to proceed with a **service change**.

#### 1.2 Application of this section

The rules in this section II of part F apply to **transmission purchasers** and **transmission providers**.

#### 1.3 Changing the rules in section II of part F

##### 1.3.1 *Process*

Subject to rule 1.3.2, the rules in this section II of part F may only be changed by a **resolution** of **transmission providers, distributors, generators, voting customers, and retailers** voting in accordance with the process set out in rule 4 of section IV of Part A and the voting rights set out in schedules A5 and A6, or by the **Board** under rule 1.9 of section IV of Part A.

##### 1.3.2 *Changing rule 1*

This rule 1 may only be changed by a **resolution** passed in accordance with the voting processes set out in rule 2 of section IV of part A.

### 2 Proposal for service change

#### 2.1 Transmission provider advising the Board of proposal for service change

Any **transmission provider** may give notice to the **Board** of a proposal for a **service change**. Every such proposal must be in writing and must:



**2.1.1 *Be sufficiently well described to be implemented***

Where the **service change** is a change to an existing contract, be sufficiently well described for the **transmission provider** and the relevant **transmission purchasers** to implement under rules 3.12 and 3.13, and where the **service change** proposes an entirely new contract, be a complete contract;

**2.1.2 *Specify the nodes at which the service change will apply***

Specify the **node** or **nodes** at which the **service change** will apply;

**2.1.3 *Specify the service definition, service measure, and service level***

Specify the **service definition**, **service measure**, and **service level** at each **node** to which the **service change** applies;

**2.1.4 *Certify that service levels at other nodes will not be adversely affected***

Certify to the **Board** that **service levels** provided under contract by the **transmission provider** at **nodes** other than the **node** or **nodes** identified under rule 2.1.2 will not be materially adversely affected by the **service change**, or that the relevant **transmission purchasers** at the **nodes** where **service levels** would be adversely affected support the proposed **service change**; and

**2.1.5 *Attach a copy of the confirmed pricing methodology***

Attach to its proposal for a **service change** a copy of the **confirmed pricing methodology** for the **transmission service** or **service that substitutes for transmission** resulting from the **service change**.

### **3 Establishing voting parties to agree service change**

#### **3.1 Service changes**

With any **service change** proposed under rule 2.1, the **transmission provider** will:

**3.1.1 *Advise the Board of the identity of prospective transmission purchasers***

Advise the **Board** of the identity and contact addresses of the **transmission purchasers** that the **transmission provider**, or its **transmission**

**purchasers**, believe would receive the new or changed **transmission service**; and

### **3.1.2 Advise the Board of the amount each prospective transmission purchaser would pay for the service change**

Advise the **Board** of the amount that each prospective **transmission purchaser** could reasonably be expected to pay under the **confirmed pricing methodology** over the 12-month period following the introduction of the new or changed **transmission service**, should such a service be introduced.

### **3.2 Transmission purchasers eligible to vote**

The **transmission purchasers** eligible to vote under rule 3.9 as to whether or not to accept the **service change** are those **purchasers** identified under rule 3.1.1.

### **3.3 Votes allocated on basis of expected transmission payments**

Each **transmission purchaser** eligible under rule 3.2 to vote on a **resolution** for a **service change** will be allocated votes by the **Board** determined by the amount it would pay under rule 3.1.2 for the new or changed **transmission service** that is the subject of the **service change** as a proportion of the total amount that would be paid for the new or changed **transmission service** under rule 3.1.2. The number of votes allocated to each **transmission purchaser** will be rounded to the nearest whole number.

### **3.4 The Board will publish the service change proposal**

Within 10 **business days** of receiving a **service change** proposal under rule 2.1, the **Board** will **notify** all **transmission purchasers** and **transmission providers** that it has received a proposal and will include in that notice the identity of the eligible voters advised under rule 3.1.1. The **Board** will **publish** the proposal and the list of eligible voters and number of votes as determined under rule 3.3 on its website. Any failure by the **Board** to comply with this rule shall not invalidate the processes set out in this Part F.

### **3.5 Appeal to the Rulings Panel**

Any **transmission purchaser** may appeal to the **Rulings Panel** if:

#### **3.5.1 The transmission provider makes an error in identifying existing transmission purchasers**

That **member** being a **transmission purchaser** believes that the **transmission provider** has made an error in either identifying or not identifying the **transmission purchaser** as being invoiced by the **transmission provider** for the relevant **service level**;

### **3.5.2 *The transmission service cannot be provided to the transmission purchaser***

The **transmission service** that is the subject of the **service change** cannot technically be provided to, or received by, the **transmission purchaser** either at all or at the specified **service level**;

### **3.5.3 *The proportion of votes allocated were calculated incorrectly***

The **transmission purchaser** believes that the proportion of votes allocated to it under rule 3.3 was calculated incorrectly;

### **3.5.4 *The transmission purchaser is unduly prejudiced***

A **transmission purchaser** believes that the **service change** proposal has been structured in a way that unduly prejudices the **transmission purchaser's** voting rights on the **service change** proposal in accordance with rule 3.1; or

### **3.5.5 *Vexatious or trivial changes***

A **transmission purchaser** believes on reasonable grounds that the **service change** proposal covers vexatious or trivial **service changes**.

## **3.6 Five days to lodge appeal**

Notice of any appeal must be lodged with the **Rulings Panel** no later than 5 **business days** after the **Board publishes** the **service change** proposal under rule 3.4. The **Rulings Panel** will then notify the **Board**, and the **Board** will **publish** on its website, the timetable for determining the appeal.

## **3.7 Panel will rule on appeal prior to vote on service change**

The **Rulings Panel** will rule on every appeal under rule 3.5 within 20 **business days** after receiving the appeal and will determine the appropriate procedure to be followed as a result of its ruling in accordance with rule 3.8. No **resolution** will be put to the **transmission purchasers** regarding the **service change** until the **Rulings Panel** has ruled on the appeal. The **Rulings Panel** must immediately notify the relevant **transmission purchaser** and **transmission provider**, and the **Board**, of its ruling and the reasons for such ruling. The **Board** will immediately **publish** this ruling and the reasons for the ruling on its website.

## **3.8 Ruling of Rulings Panel**

The **Board** and the **transmission provider** must comply with the ruling of the **Rulings Panel**. The **Rulings Panel** may either direct the **transmission provider** to withdraw the **service change** proposal and in so doing it may provide comments and

suggestions relating to the inadequacies of the current proposal, or dismiss the appeal and approve the service change proposal proceeding to a **resolution of transmission purchasers** under rule 3.9.

### **3.9 Resolution to accept or reject the service change**

The **Board** will put the acceptance of the **service change** to a **resolution** of the **transmission purchasers** voting in accordance with the process set out in schedule A5 and the voting rights determined under rule 3.3 as is relevant, within:

#### **3.9.1 Service change proposal where no appeal**

Five **business days** of publishing a **service change** proposal under rule 3.4 which is not appealed; or

#### **3.9.2 Service change proposal which has been appealed**

Five **business days** of the **Rulings Panel** ruling on an appeal under rule 3.5 and either dismissing that appeal or otherwise allowing the **service change** proposal to be put to a **resolution of transmission purchasers**,

### **3.10 Requisite majority for service change**

Any **resolution** in relation to a **service change** under rule 3.9 requires that at least 75% of the votes cast by **transmission purchasers** under rule 3.9 be in favour of the **resolution**.

### **3.11 The Board will publish the result of the vote**

Within 1 **business day** of the **resolution** being voted on under rule 3.9, the **Board** will **publish** the result of the **resolution** on its website. The **Board** will **notify** all **transmission purchasers** and **transmission providers** that it has **published** the results. Any failure by the **Board** to comply with this rule shall not invalidate the processes set out in this part F.

### **3.12 Resolution is binding on transmission provider and transmission purchasers**

Subject to rule 4, any **resolution** passed under rule 3.9 will bind the **transmission provider** to provide the **transmission service**, and all **transmission purchasers** identified under rule 3.1.1 as being eligible to vote on the **service change** proposal to purchase the **transmission service**, under the terms specified in the **service change** proposal under rule 2.1. A **resolution** in favour of the **service change** will not be given effect to until any appeals are determined under rule 4 or the period within which appeals may be lodged under rule 4.2 has passed without an appeal being made. Where the **resolution** is not passed under rule 3.9, the **service change** proposal will lapse, unless a valid appeal has been lodged in accordance with rule 4.1.

### **3.13 The transmission provider and the transmission purchaser shall give effect to resolution**

The **transmission provider** and the **transmission purchaser** shall carry out all acts and enter into all agreements or deeds necessary to give effect to the **resolution** set out in rule 3.12. Subject to the terms of the proposal, nothing in this section II will prevent or limit the expiration, termination or variation of any contract between a **transmission provider** and a **transmission customer**.

## **4 Appeal against a decision regarding a service change**

### **4.1 Decisions eligible for appeal**

Any person may appeal to the **Board** against a **resolution** by **transmission purchasers** under rule 3.9, whether the effect of the **resolution** is to proceed or not to proceed with a **service change**. Where more than one person appeals to the **Board** under this rule, the appeals may be conducted as one where the **Board** considers appropriate. An appeal against a **resolution** may only be heard by the **Board** if:

#### **4.1.1 *At least 25% of votes were held by distributors who have not adopted distribution service change procedure of model contract***

At least 25% of votes of the **transmission purchasers** to whom the **resolution** was put were held by **distributors** who have not adopted the distribution service change procedure contained in the model distribution contract **published** by the **Board** or who did not use this process in this specific case or, if they did use the process in the specific case, distributors for whom the process is not the usual practice in investment decisions; and

#### **4.1.2 *Been proposed twice with at least one year between votes***

Where the effect of the **resolution** is not to proceed with a **service change**, the **service change**, or a materially equivalent **service change**, had been proposed to materially the same group of **transmission purchasers** at least twice, no material changes had been made to either the **service change** or the **confirmed pricing methodology** between those separate proposals, and the **resolutions** in respect of each proposal were at least one year apart.

### **4.2 Appeal to be lodged within one month**

Every appeal must be lodged with the **Board** within 1 month of the date on which the **Board published**, under rule 3.11, the outcome of the **resolution** on the proposed **service change**.

### 4.3 Board is to determine whether the resolution may be appealed

Within 10 **business days** of receiving an appeal under rule 4.2, the **Board** will determine whether or not the **resolution** may be appealed in accordance with rule 4.1 and **publish** this determination, together with the reasons for such determination, on its website.

### 4.4 Appellant must establish arguable case

Where the **Board** determines that the **resolution** may be appealed in accordance with rule 4.1, the **appellant** shall make submissions to the **Board** that an arguable case exists that allowing the appeal would be likely to result in such a **benefit to the public** that the appeal should be allowed, within 20 **business days** of the date on which the **Board published**, in accordance with rule 4.3, its determination that the **resolution** may be appealed.

### 4.5 Board to publish arguable case

Within 2 **business days** of submissions being made to the **Board** under rule 4.4 the **Board** will **publish** those submissions on its website.

### 4.6 The Board is to determine whether an arguable case is has been established

The **Board** will decide whether or not it considers that the **appellant** has established a an arguable case within 2 months of receipt of the submissions from the **appellant**. The **Board** may undertake whatever investigations it considers necessary in order to reach its decision.

#### 4.6.1 *Board determines arguable case is established*

If the **Board** determines that an arguable case has been established the **Board** will then consider the appeal under rule 4.8.

#### 4.6.2 *Board determines arguable case has not been established*

If the **Board** determines that an arguable case has not been established, the appeal is dismissed.

### 4.7 Board to publish its decision

The **Board** will **publish** on its website every decision made under rule 4.6 together with the reasons for the decision within 10 **business days**. The **Board** will **notify** all **transmission purchasers** and **transmission providers** that it has **published** its decision. Any failure by the **Board** to comply with this rule shall not invalidate the processes set out in this part F.

#### **4.8 Board to determine whether allowing the appeal against the resolution is likely to result in such a benefit to the public that it should be allowed**

If the **Board** determines under rule 4.6 that an arguable case has been established, the **Board** will decide in accordance with rules 4.9 to 4.12 whether allowing the appeal is likely to result in such a **benefit to the public** that it should be allowed. The **Board** will not modify the proposed **service change**. The **Board** may undertake whatever investigations it considers necessary to reach its decision.

#### **4.9 Board is to publish timetable**

The **Board** will **publish** its timetable for considering the appeal on its website within 10 **business days** of determining that an arguable case has been established.

#### **4.10 Board is to invite input**

The **Board** will invite the **appellant**, the **transmission provider**, and any **transmission purchaser** eligible to vote under rule 3.3, to submit material each considers the **Board** should take into account.

#### **4.11 Board is to decide within 3 months**

The **Board** will reach a decision in accordance with rule 4.12 whether or not allowing the appeal against the **resolution** is likely to result in such a **benefit to the public** that it should be allowed within 3 months of **publishing** its decision under rule 4.6 that an arguable case has been established.

#### **4.12 The Board is to consider the following matters in reaching its decision as to public benefit**

When determining whether it is likely that allowing the appeal would result in such a **benefit to the public** that it should be allowed, the **Board** will have regard to:

##### ***4.12.1 The timing of costs and benefits***

The timing of the costs and benefits;

##### ***4.12.2 The certainty of the costs and benefits***

The degree of certainty that the costs and benefits of the proposed **service change** will be achieved; and

##### ***4.12.3 Any other matter it considers relevant***

Any other matters the **Board** considers relevant.

#### 4.13 Board to publish its decisions

The **Board** will **publish** every decision under rule 4.12, together with the reasons for the decision, on its website, within 10 **business days** of making the decision. The **Board** will **notify** all **transmission purchasers** and **transmission providers** that it has **published** its decision. Any failure by the **Board** to comply with this rule shall not invalidate the processes set out in this part F.

#### 4.14 Effect of Board decision

Where the **Board** determines under rule 4.3 that the **resolution** is exempt from appeal, or is not satisfied under rule 4.8 that allowing the appeal is likely to result in such a **benefit to the public** that it should be allowed, the decision made by **transmission purchasers** under rule 3.9 will stand. If that decision was to reject the **service change** proposal, then the **service change** proposal will lapse.

Where the **Board** decides under rule 4.12 that allowing the appeal is likely to result in such a **benefit to the public** that it should be allowed, the decision made by **transmission purchasers** under rule 3.9 will be reversed, and the **transmission purchasers** will be deemed to have voted in accordance with the **Board's** decision. If the result is that the **transmission purchasers** will be deemed to have rejected the **service change** proposal, then the **service change** proposal will lapse.

#### 4.15 The transmission provider and the transmission purchaser shall give effect to Board's decision

The **transmission provider** and the **transmission purchaser** shall carry out all acts and enter into all agreements or deeds necessary to give effect to the decision of the **Board** under rule 4.11.

### 5 Service changes requiring new service definitions or service measures

#### 5.1 Updated list of service definitions and service measures

Where the acceptance of a proposed **service change** in accordance with rule 3.9 or the successful appeal of a rule 3.9 resolution under rule 4 results in a change to the list of **service definitions** and **service measures published** on the **Board's** website, then the **Board** will update this list.



## III Rules for pricing transmission services

### 1 Introductory Rules

#### 1.1 Contents of this section

The rules contained in this section III of Part F concern the processes by which a **pricing methodology** for a **transmission service** or a **service that substitutes for transmission** subject to sections I or II of this Part F, is submitted to and considered by the **Board**. The section specifies how **transmission prices** calculated in accordance with a **confirmed pricing methodology** are verified and enforced.

#### 1.2 Application of this section

The rules in this section III of part F apply to **transmission providers** and **transmission purchasers** who receive **transmission services** or a **service that substitutes for transmission** which was subject to section I or section II of this Part F.

#### 1.3 Steps completed prior to Part F commencing

If, prior to the rules in Part F commencing, **Transpower** has completed any steps in developing and reporting on a design process or on design principles, then the **Board** may, at the request of **Transpower**, within 20 **business days** of such request, deem those steps to have taken place under the relevant rules in Part F. In deciding whether to deem those steps to have taken place under this Part F, the **Board** shall have regard to the criteria set out in rule 4.7. Where the **Board** deems steps completed by **Transpower** prior to the rules in Part F commencing to have taken place under Part F, the **Board** shall notify **Transpower** of the time within which it must complete the processes set out in this section III. The **Board** must immediately **publish** on its website the decision by the **Board** to deem such steps to have taken place under Part F, the reasons for that decision, and the time limit imposed by the **Board** for the completion of the section III processes.

#### 1.4 Changing the rules in section III of part F

##### 1.4.1 Process

Subject to rule 1.4.2, the rules in this section III of part F may be changed only by a **resolution** of **transmission purchasers** and **transmission providers** voting in accordance with the process set out in rule 4 of section IV of Part A and the voting rights contained in schedules A5 and A6, or by the **Board** under rule 1.9 of section IV of Part A.

### 1.4.2 **Changing rule 1**

This rule 1 may only be changed by a **resolution** passed in accordance with the voting processes set out in rule 2 of section IV of part A.

## 2 **Developing a pricing methodology**

### 2.1 **Transmission provider is responsible for developing a pricing methodology**

#### 2.1.1 **Transmission provider will submit pricing methodology**

**A transmission provider** providing a **transmission service** or a **service that substitutes for transmission** will submit a **pricing methodology** to the **Board** according to the procedures set out in this section III of part F:

##### 2.1.1.1 Within 9 months of the rules coming into force

Where the **transmission provider** is **Transpower** and **Transpower** has not made a request to the **Board** under rule 1.3, or the **Board** has declined such request under rule 1.3, within 9 months of the **rules** coming into force (such **pricing methodology** to apply to **service definitions**, **service measures** or **service levels** determined or to be determined under section I); or

##### 2.1.1.2 Within 9 months of receiving written notice from **transmission purchasers**

Within 9 months of receiving written notice that it review its **confirmed pricing methodology** from **transmission purchasers** who together pay 50% or more of the revenue received by the **transmission provider** from **transmission prices** determined under that **pricing methodology**. Every such notice from **transmission purchasers** will set out the reasons for the review; or

##### 2.1.1.3 Where the **transmission provider** wishes to change a **confirmed pricing methodology**

In any circumstance where the **transmission provider** wishes to make a change to a **confirmed pricing methodology** provided that no such change may be submitted within 2 years of confirmation of the relevant **pricing methodology** under rule 5 except with the consent of the **Board**, such consent not to be unreasonably withheld; or

2.1.1.4 Within 9 months of the Commerce Commission ceasing to determine the **pricing methodology**

Within 9 months of any **pricing methodology** authorised by the Commerce Commission (under section 57P of the Commerce Act 1986) which applies to **service definitions**, **service measures** and **service levels** determined under section I or section II ceasing to apply.

### **2.1.2 Transmission provider may submit pricing methodology**

Subject to rule 2.1.1.3, a **transmission provider** providing or intending to provide a **transmission service** or a **service that substitutes for transmission** may, at any time, submit a **pricing methodology** to the **Board** according to the procedures set out in this section III of part F.

## **2.2 Transmission provider to review pricing methodology regularly**

A **transmission provider** who has had a **pricing methodology** confirmed by the **Board** under rule 5.8 as conforming to the objectives and principles for transmission pricing set out in rule 2.3 will conduct a review of its **pricing methodology** at least once every five years. At the completion of such a review, the **transmission provider** will report to the **Board** with regard to whether the **transmission provider** considers the **pricing methodology** continues to conform to the principles and objectives for transmission pricing set out in rule 2.3. If the **transmission provider** considers that the **pricing methodology** no longer conforms to those principles and objectives, the **transmission provider** will provide a report in which it will specify the changes the **transmission provider** proposes to make to the **pricing methodology** to ensure it conforms to the principles and objectives in rule 2.3. The **transmission provider** will also submit a reviewed **pricing methodology** to the **Board** that includes the changes outlined in the report.

## **2.3 Transmission pricing principles and objectives**

**Transmission services** are to be priced efficiently, and to this end a **pricing methodology** should achieve:

### **2.3.1 Transmission pricing principles**

The following principles (as interpreted under rule 2.4):

#### **2.3.1.1 Economic costs**

After allowing for financial losses and costs properly chargeable to its shareholder or shareholders, the **transmission provider's** charges should recover the full economic costs of its services;

2.3.1.2 Costs of connection

The costs of connection should as far as possible be allocated on a user pays basis;

2.3.1.3 Investments

The pricing of new and replacement investments should provide **transmission purchasers** with strong incentives to identify least cost investment options, including energy efficiency and demand management options;

2.3.1.4 Locational signals for new entrants

Pricing for new entrants should provide clear locational signals;

2.3.1.5 Sunk costs

Sunk costs should be allocated in a way that minimises distortions to production/consumption and investment decisions made by **transmission purchasers**;

2.3.1.6 Pricing structure

The overall pricing structure should include a variable element that reflects the marginal costs of supply in order to provide an incentive to minimise network constraints;

**2.3.2 Transmission pricing objectives**

The objective (as interpreted under rule 2.4) of pricing transmission services in a manner that:

2.3.2.1 Transparent

Is transparent;

2.3.2.2 Reflects cost

Fully reflects their cost including risk;

2.3.2.3 Nationally efficient supply

Facilitates nationally efficient supply, delivery and use of electricity;

2.3.2.4 Promote efficient use of resources

Promotes efficient use of the transmission provider's resources;

#### 2.3.2.5 Promote efficient use of services

Promotes nationally efficient use of **transmission services** by **transmission purchasers** and so facilitates efficient resource use.

### 2.4 Interpretation of principles and objectives

In applying the principles and objectives set out in rule 2.3:

#### 2.4.1 *Conflicts*

Any conflicts in the principles or objectives should be resolved in the manner most consistent with the objective of satisfying the electricity requirements of consumers in a manner that is least cost to the economy as a whole and is consistent with sustainable development; and

#### 2.4.2 *Practical considerations*

The application of the principles and objectives should take into account practical considerations, transaction costs and the desirability of consistency and certainty.

## 3 Review of design process

### 3.1 Transmission provider to report on design process to be used to develop or review pricing methodology

Prior to or contemporaneous with preparing a new **pricing methodology** under rule 2.1 or a reviewed **pricing methodology** under rule 2.2, the **transmission provider** will report to the **Board** on the design process it intends to follow in developing or reviewing the **pricing methodology** in accordance with the process set out in this rule 3.

### 3.2 Transmission provider to publish proposed design process and call for submissions

The **transmission provider** will **publish** on its website the design process it intends to follow in developing or reviewing the **pricing methodology** and will invite submissions on the design process to be made by any person.

### 3.3 Any person may make submissions

Any person may make submissions on the design process published by the **transmission provider** in accordance with rule 3.2. Such submissions must be made in writing to the **transmission provider** within **20 business days** of the

**transmission provider** publishing its proposed design process in accordance with rule 3.2.

### **3.4 Transmission provider to publish submissions**

All submissions made to the **transmission provider** under rule 3.3 shall immediately be **published** by the **transmission provider** on its website.

### **3.5 Transmission provider to report to Board**

The **transmission provider** will have regard to submissions made on the design process in accordance with rule 3.3 and any other information it considers relevant, and determine within 10 **business days** of the closing date for submissions under rule 3.3, whether and how it will revise the design process it intends to follow in creating or reviewing its **pricing methodology**. The **transmission provider** will submit the design process it intends to follow in developing or reviewing the **pricing methodology** to the **Board** within 10 **business days** of the closing date for submissions under rule 3.3.

### **3.6 Board to consider design process proposed by transmission provider**

The **Board** will, as soon as is reasonably practical, consider the proposed design process reported to the **Board** under rule 3.5. The **Board** will provide written comment, appropriate to the circumstances, to the **transmission provider** as to whether, in the view of the **Board**, the design process proposed by the **transmission provider** should be sufficient to support robust conclusions. The written comment will be provided within 20 **business days** of the proposal being reported to the **Board** where the design process relates to rule 2.1, and within 10 **business days** where the design process relates to rule 2.2.

### **3.7 Transmission provider will decide whether to revise its design process**

The **transmission provider** will have regard to the comments received from the **Board** under rule 3.6 and will determine whether and how it will revise the design process it intends to follow in creating or reviewing its **pricing methodology**. The **transmission provider** will provide a report to the **Board** within 10 **business days** of receiving written comment from the **Board** under rule 3.6 explaining the changes, if any, the **transmission provider** will make to its design process and the reasons for those changes.

### **3.8 The Board will publish its comments and the response by the transmission provider**

Within 5 **business days** of receiving the response of the **transmission provider** under rule 3.6, the **Board** will **publish** on its website the comment it provided to the **transmission provider** under rule 3.6 and the response it received from the **transmission provider** under rule 3.7. The **Board** will **notify** all **transmission purchasers** and **transmission providers** that it has **published** those reports. Any

failure by the **Board** to comply with this rule shall not invalidate the processes set out in this part F.

## 4 Review of design principles and further review of design process

### 4.1 Transmission provider to report on design principles and process

Prior to or contemporaneous with submitting a new **pricing methodology** under rule 2.1 or a reviewed **pricing methodology** under rule 2.2 the **transmission provider** will report to the **Board** setting out and explaining the design principles that will form the basis of the **pricing methodology** and describing the design process followed by the **transmission provider** in developing its design principles in accordance with the process set out in this rule 4.

### 4.2 Transmission provider to invite submissions

The **transmission provider** will **publish** on its website the design principles it intends to follow in creating or reviewing its **pricing methodology** and the design process it followed in developing the design principles and will invite submissions on the design principles and the design process to be made by any person.

### 4.3 Any person may make submissions

Any person may make submissions on the design principles and the design process followed by the **transmission provider** in developing its design principles published by the **transmission provider** in accordance with rule 4.2. Such submissions must be made in writing to the **transmission provider** within 20 **business days** of the **transmission provider** publishing its design principles in accordance with rule 4.2.

### 4.4 Transmission provider to publish submissions

All submissions made to the **transmission provider** under rule 4.3 shall immediately be **published** by the **transmission provider** on its website.

### 4.5 Transmission provider to report to the Board

The **transmission provider** will have regard to submissions made on the design process in accordance with rule 4.3 and any other information it considers relevant, and determine within 10 **business days** of the closing date for submissions under rule 4.3, whether and how it will revise the design principles and the design process followed by the **transmission provider** in developing its design principles. The **transmission provider** will submit the design principles and the design process followed by the **transmission provider** in developing its design principles to the **Board** within 10 **business days** of the closing date for submissions under rule 4.3. The **transmission provider** shall provide such information and rationale as is necessary to enable the **Board** to make an informed assessment of the design principles and whether the design process followed by the **transmission provider** in

developing its design principles was sufficiently robust to support the design principles set by the **transmission provider**.

#### **4.6 The Board may decline to consider report if insufficient information provided**

The **Board** may decline to consider a report received from the **transmission provider** under rule 4.5 if, in its view, the **transmission provider** has not provided sufficient information for the **Board** to make an informed assessment as to the matters referred to in rule 4.1. The **Board** shall advise the **transmission provider** of the extra information required.

#### **4.7 The Board to assess whether the process followed by the transmission provider in developing the design principles is robust**

As soon as practical after receiving a report from a **transmission provider** under rule 4.5 or rule 4.9 (and in no event more than 30 **business days** after such receipt), the **Board** will reach a view whether the design principles and the process followed by the **transmission provider** in developing its design principles are sufficiently robust. In undertaking this assessment, the **Board** will have regard to the following matters:

##### **4.7.1 *Engagement with stakeholders***

Whether the **transmission provider**, in developing its views, sought appropriate engagement with **transmission purchasers** and other parties with a relevant interest, and provided an opportunity for the views of all parties to be considered in a fair and unbiased manner;

##### **4.7.2 *Relevant facts considered***

Whether the **transmission provider** considered all facts relevant and available to it in developing its views;

##### **4.7.3 *Irrelevant and extraneous matters ignored***

Whether the **transmission provider** had taken into account irrelevant or extraneous matters;

##### **4.7.4 *Taken a consistent approach***

Whether the **transmission provider** had reached decisions that were consistent with its previous conclusions and consistent across different aspects of the detailed design principles;



#### **4.7.5 Reached reasonable decisions**

Whether the **transmission provider** had reached decisions that seem reasonable in light of the facts available to it; and

#### **4.7.6 Board may consider other matters**

Any other factors the **Board** deems relevant to assessing the robustness of the design principles and process undertaken by the **transmission provider**, including any comment by interested parties on the process undertaken by, or the design principles adopted by, the **transmission provider**.

#### **4.8 Board to provide a report to the transmission provider**

Once the **Board** has reached a view as to whether the design principles and process followed by the **transmission provider** in developing its design principles are robust in accordance with rule 4.7, the **Board** will provide written comment to the **transmission provider** setting out its views and the reason for such views.

#### **4.9 Transmission provider will decide whether to revise its design principles**

The **transmission provider** will have regard to the comments received from the **Board** under rule 4.8 and any other information it considers relevant, and determine whether it will revise its design principles and or amend and repeat aspects of the process it followed in developing its design principles. Within 10 **business days** of receiving comments from the **Board** under rule 4.8, the **transmission provider** will provide a report to the **Board** explaining the changes, if any, it will make to its design principles and/or process and the reasons for those changes, and, if the **transmission provider** chooses, seeking further comment from the **Board** under rule 4.7 and rule 4.8.

#### **4.10 The Board will publish its comments and the response by the transmission provider**

Within 2 **business days** after receiving a response from the **transmission provider** under rule 4.9 which does not seek further comment from the **Board**, the **Board** will **publish** the latest comment it provided to the **transmission provider** under rule 4.8 and the response it received from the **transmission provider** under rule 4.9 on its website. The **Board** will **notify** all **transmission purchasers** and **transmission providers** that it has **published** those reports. Any failure by the **Board** to comply with this rule shall not invalidate the processes set out in this part F.

## 5 Confirmation of pricing methodology

### 5.1 Board will determine whether a pricing methodology conforms to the principles and objectives for transmission pricing

Within 30 **business days** after receiving a new **pricing methodology** under rule 2.1 or a reviewed **pricing methodology** under rule 2.2, the **Board** will determine whether any such **pricing methodology** conforms to the principles and objectives for transmission pricing set out rule 2.3 as interpreted under rule 2.4.

### 5.2 The Board will notify members of and publish a proposed pricing methodology

Within 2 **business days** of receiving a new **pricing methodology** submitted under rule 2.1 or a reviewed **pricing methodology** submitted under rule 2.2, the **Board** will **notify** all **members** that it has received a proposed **pricing methodology** from a **transmission provider** and that it will determine whether that methodology conforms to the principles and objectives for transmission pricing set out in rule 2.3 as interpreted under rule 2.4. This notice will include a copy of the proposed **pricing methodology** and invite submissions from **members** regarding the proposed **pricing methodology**. The omission to give notice, or the non-receipt of notice, by any **member** shall not invalidate the processes set out in this part F. The **Board** will also **publish** the proposed **pricing methodology** on its website within 2 **business days** of receiving the **pricing methodology** and invite submissions from any person regarding the proposed **pricing methodology**.

### 5.3 Any person may provide submissions to the Board regarding the proposed pricing methodology

Any person may provide submissions to the **Board** regarding the proposed **pricing methodology**. These submissions must be provided within 40 **business days** of the notice provided by the **Board**, unless the **Board** amends such time limit (whether up or down) to take into consideration the nature and extent of the proposed **pricing methodology**, under rule 5.2 and will be limited to the following matters:

#### 5.3.1 *Whether the design process used by the transmission provider supported its conclusions*

Whether the design process used by the **transmission provider** was sufficiently robust to support the conclusions presented to the **Board**. In particular:

##### 5.3.1.1 Sought appropriate engagement

Whether the **transmission provider**, in developing its views, sought appropriate engagement with **transmission purchasers** and other parties with a relevant interest, and provided an opportunity for the views of all parties to be considered in a fair and unbiased manner;

5.3.1.2 Considered all facts

Whether the **transmission provider** considered all facts relevant and available to it in developing its views;

5.3.1.3 Took into account irrelevant or extraneous matters

Whether the **transmission provider** had taken into account irrelevant or extraneous matters;

5.3.1.4 Decisions were consistent with conclusions

Whether the **transmission provider** had reached decisions that were consistent with its previous conclusions and consistent across different aspects of the **pricing methodology**; and

5.3.1.5 Reasonable decisions

Whether the **transmission provider** had reached decisions that are reasonable in light of the facts available to it.

**5.3.2 *Whether the pricing methodology is consistent with the reported design principles***

Whether the **pricing methodology** developed by the **transmission provider** is consistent with the design principles developed by the **transmission provider** and reported to the **Board** under rule 4.1 including any revisions reported under rule 4.8.

**5.3.3 *Whether the pricing methodology is consistent with principles and objectives***

Whether the **pricing methodology** developed by the **transmission provider** conforms to the principles and objectives for transmission pricing set out in rule 2.3 as interpreted under rule 2.4.

**5.4 Board to publish submissions**

All submissions made to the **Board** regarding the **pricing methodology** that has been submitted by the **transmission provider** should be **published** by the **Board** on its website within 2 **business days** of receiving each submission.

**5.5 The Board to consider the following matters in assessing a pricing methodology**

When assessing whether a **pricing methodology** conforms to the principles and objectives for transmission pricing set out in rule 2.3, the **Board** will have regard to the issues set out in rules 5.3.1 to 5.3.3, the submissions provided in accordance with rule 5.3 and any other factors the **Board** deems relevant to assessing whether the

**pricing methodology** conforms with the principles and objectives for transmission pricing set out in rule 2.3 as interpreted under rule 2.4.

## 5.6 Provision of information to the Board

A **transmission provider** submitting a new **pricing methodology** under rule 2.1 or a reviewed **pricing methodology** under rule 2.2 shall provide such information and rationale as is necessary to enable the **Board** to make an informed assessment as to whether the **pricing methodology** conforms to the principles and objectives for transmission pricing set out in rule 2.3 as interpreted under rule 2.4. The **Board** will have access to any submission made to the **transmission provider** by any person regarding the **pricing methodology**.

## 5.7 The Board may decline to consider pricing methodology if insufficient information provided

The **Board** may decline to consider a **pricing methodology** received from the **transmission provider** if, in its view, the **transmission provider** has not provided sufficient information under rule 5.6 for the **Board** to make an informed assessment of the **pricing methodology**. The **Board** shall advise the **transmission provider** of the extra information required.

## 5.8 Board to decide whether pricing methodology conforms with principles and objectives for transmission pricing

Once the **Board** has considered the new **pricing methodology** submitted under rule 2.1 or the reviewed **pricing methodology** submitted under rule 2.2, the **Board** may either:

### 5.8.1 *Confirm the pricing methodology*

Confirm that the **pricing methodology** conforms to the principles and objectives for transmission pricing set out in rule 2.3 as interpreted under rule 2.4; or

### 5.8.2 *Refer the pricing methodology back to the transmission provider*

Refer the **pricing methodology** back to the **transmission provider** if in the view of the **Board** the **pricing methodology** does not conform to the principles and objectives for transmission pricing set out in rule 2.3 as interpreted under 2.4.

If the **Board** refers the **pricing methodology** back to the **transmission provider**, the **Board** will provide written comment setting out the reasons why, in its view, the **transmission provider** has not established that the **pricing methodology** conforms to the principles and objectives for transmission pricing set out in rule 2.3 as interpreted under rule 2.4. Such comments are to be provided within 10 **business days** of the **Board** reaching its decision. The **Board** will **publish** its decision under

this rule 5.8, together with the reasons for such decision, on its website within 10 **business days** of making such decision.

### **5.9 Process will continue until pricing methodology confirmed or transmission provider withdraws from process**

If the **Board** refers the **pricing methodology** back to the **transmission provider** under rule 5.1, the procedures set out in rules 5.1 to 5.8 will be followed until such time as either:

#### **5.9.1 The Board confirms the pricing methodology**

The **Board** confirms the **pricing methodology** as conforming to the principles and objectives for transmission pricing set out in rule 2.3 as interpreted under rule 2.4; or

#### **5.9.2 The transmission provider withdraws from the process**

The **transmission provider** notifies that **Board** that its circumstances have changed such that it is no longer required to submit a new **pricing methodology** under rule 2.1 or a reviewed **pricing methodology** under rule 2.2.

### **5.10 Minor changes to confirmed pricing methodology**

Where a **transmission provider** proposes to make changes to a **confirmed pricing methodology** that it considers will be so minor as to not warrant following the process set out in rules 3 and 4, the **transmission provider** shall advise the **Board** accordingly. The **Board**, acting reasonably, may agree with the **transmission provider** in which case the **transmission provider** shall not be required to comply with rules 3 and 4 in respect of those changes. However, any changes to the **confirmed pricing methodology** must comply with this rule 5.

### **5.11 Process overridden if the Commerce Commission intervenes to determine the pricing methodology**

The rules set out in this section III will not apply to **Transpower** if the Governor General requires the Commerce Commission to make an authorisation in respect of the **pricing methodology** to be applied by **Transpower** under section 57O of the Commerce Act 1986 during the period of that authorisation. A Commerce Commission determined **pricing methodology** will be considered to be a **confirmed pricing methodology** for the purposes of rule 5.1.3 of section I and rule 8 of Schedule A5.

### **5.12 The Board or Transpower may petition the Minister if differences are irreconcilable**

If

### **5.12.1 *Transpower is the transmission provider***

**Transpower** is the **transmission provider** that has submitted the **pricing methodology** for **transmission services** to which rules 3, 4 and 5 of section I apply; and

### **5.12.2 *Differences irreconcilable***

either the **Board** or **Transpower**, acting in good faith, reaches the opinion that the differences between the **Board** and **Transpower** as to whether the **pricing methodology** conforms to the principles and objectives of transmission pricing set out in rule 2.3 as interpreted under rule 2.4 are irreconcilable

that party may inform the Minister responsible for the Electricity Act 1992 of the impasse and recommend that, in its view, the Minister should recommend that the Governor General, by Order in Council under section 57O of the Commerce Act 1986, require the Commerce Commission to make an authorisation in respect of all or any component of **Transpower's pricing methodology**.

This rule does not limit the rights of any **member** to make any recommendation to the Minister responsible for the Electricity Act 1992 or the Commerce Commission at any time regarding a **pricing methodology**.

## **5.13 The Board and Transpower should continue in good faith**

Notwithstanding that either **Transpower** or the **Board** may have recommended to the Minister under rule 5.12 that the Commerce Commission make an authorisation in respect of all or any component of **Transpower's pricing methodology**, the parties should continue to follow the procedures set out in rules 5.1 to 5.9 in good faith until such time as the Governor General, by Order in Council, requires the Commerce Commission to make an authorisation in respect of **Transpower's pricing methodology**.

## **6 Application of confirmed pricing methodology**

### **6.1 Transmission provider prepares indicative customer-specific prices**

Within 20 **business days** of the **Board** confirming the **pricing methodology**, the **transmission provider** will:

#### **6.1.1 *Develop algorithms used for calculating transmission prices***

Develop algorithms for calculating customer-specific **transmission prices**, and prepare detailed documentation of those algorithms to a level suitable for inspection by **transmission purchasers** and third parties; and

### **6.1.2 Describe input information used for calculating prices**

Describe and document, at a level suitable for third party inspection, inputs that will be used in the algorithms to calculate customer-specific **transmission prices**.

## **6.2 Selection of auditor**

Within 20 **business days** of the **Board** confirming the **pricing methodology**, the **Board** and the **transmission provider** will agree an auditor to verify that the **transmission provider** correctly applies the **pricing methodology**:

### **6.2.1 Board proposes auditor**

The **Board** will propose, in writing, an auditor;

### **6.2.2 Transmission provider responds to proposal**

The **transmission provider** will respond in writing either accepting or rejecting the auditor proposed by the **Board**. If the **transmission provider** rejects the auditor nominated by the **Board**, the **transmission provider** may propose an alternative; and

### **6.2.3 If parties cannot agree, the auditor will be appointed**

If the **Board** and the **transmission provider** are unable to agree on an auditor, the auditor shall be a person nominated as such by the President for the time being of the Institute of Chartered Accountants.

## **6.3 Board will determine scope of audit**

The **Board**, in consultation with the **transmission provider**, will determine the scope of the audit necessary to satisfy **transmission purchasers** that the **confirmed pricing methodology** had been applied correctly.

## **6.4 The Board will engage the agreed auditor**

Once the **Board** and the **transmission provider** have agreed upon an auditor, or the auditor is appointed under rule 6.2.3, and the scope of the audit is determined, the **Board** will engage the **agreed auditor** to undertake an audit of the application by the **transmission provider** of the **confirmed pricing methodology** within the scope of the audit.

## 6.5 Audit of application of pricing methodology

The **agreed auditor** will undertake an audit to assess whether the **transmission provider** has correctly applied the **confirmed pricing methodology** through:

### 6.5.1 Auditor obtains sufficient audit evidence

Obtaining sufficient and appropriate evidence through the performance of compliance and substantive procedures to enable a reasonable conclusion to be drawn and on which to base an opinion as to whether the **confirmed pricing methodology** has been correctly applied by the **transmission provider**; and

### 6.5.2 Auditor may request additional documentation

Requesting from the **transmission provider** any further documentation it determines in its sole discretion to be necessary to provide an opinion on the application of the **confirmed pricing methodology**. The **transmission provider** will meet all reasonable requests by the **agreed auditor** for information.

## 6.6 Auditor to report on whether pricing methodology correctly applied

The **agreed auditor** will report to the **transmission provider** with regard to whether the application of the **pricing methodology** by the **transmission provider** contains errors or inconsistencies that may have a material impact on the prices of any individual **transmission purchaser**, or **transmission purchasers** in general.

### 6.7 Transmission provider will respond to auditor's report

Within 20 **business days** of receiving the auditor's report under rule 6.6, the **transmission provider** will respond in writing to the **agreed auditor** explaining what actions, if any, it has taken to correct any material errors identified by the **agreed auditor** under rule 6.6.

## 6.8 Auditor to report to the Board on application of pricing methodology

Within 5 **business days** of receipt of the response by the **transmission provider** under rule 6.7, the **agreed auditor** will report to the **Board** certifying either that:

### 6.8.1 That the pricing methodology was applied correctly

The **transmission provider** had applied correctly the **confirmed pricing methodology**; or



### **6.8.2 *Material errors remained in the application of the pricing methodology***

Material errors remained in the application by the **transmission provider** of the **confirmed pricing methodology**.

### **6.9 Board to publish auditor's report**

The **Board** shall **publish** on its website, within 5 **business days** of the day on which it receives the report, a copy of the **agreed auditor's** report to the **Board** provided pursuant to rule 6.8.

### **6.10 Auditor's costs**

The **transmission provider** will meet the actual and reasonable expenses of the **agreed auditor**.

## **7 Calculation and review of customer-specific prices**

### **7.1 Issue of provisional customer-specific transmission prices**

Within 10 **business days** of the **transmission provider** receiving a report from the **agreed auditor** stating that no material errors were identified in the application by the **transmission provider** of the **confirmed pricing methodology**, the **transmission provider** will provide written notice to its customers of the **transmission prices** or **provisional transmission prices** they will pay under the **confirmed pricing methodology**. This notice shall provide each **transmission purchaser** with all information specific to that **transmission purchaser** necessary for the **transmission purchaser** to calculate its own charges from the **confirmed pricing methodology**.

### **7.2 Customer may request a review of provisional transmission prices**

Within 10 **business days** of receiving a notice of **provisional transmission prices** under rule 7.1, **transmission purchasers** may inform the **transmission provider** in writing of any errors in calculation or any material errors in the assumptions on which the calculation is made.

### **7.3 Transmission provider to respond**

Within 10 **business days** of receiving a notice from a **transmission purchaser** under rule 7.2, the **transmission provider** should provide the **transmission purchaser** with a written response which:

**7.3.1 If provider agrees error was made, corrects the error**

If the **transmission provider** agrees that an error was made, issues new **provisional transmission prices** that correct the error; or

**7.3.2 If provider disagrees error was made, provides reasons**

If the **transmission provider** decides a calculation error has not been made, explains to the **transmission purchaser** its reasons for believing that the **provisional transmission prices** are correct.

**7.4 Procedures for review by Rulings Panel of possible calculation errors**

If the **transmission provider** and the **transmission purchaser** are unable to agree as to whether an error has been made in calculating **provisional transmission prices**, either party may appeal to the **Rulings Panel** to determine on the basis of fact whether an error has been made, but that party may not appeal on the grounds that the **confirmed pricing methodology** is incorrect or, where the **agreed auditor** has certified the **pricing methodology** under rule 6.8.1, that the **confirmed pricing methodology** has been applied incorrectly.

**7.5 Decision of Rulings Panel to be binding**

Every decision of the **Rulings Panel** as to the correct calculation of the customer specific prices in accordance with the **confirmed pricing methodology** and the audited application of that methodology, will be binding on both the **transmission provider** and the **transmission purchaser**.

**8 8 Enforcement of transmission charges****8.1 Validity of confirmed pricing methodology and its application will not be challenged**

**Transmission providers** and **transmission purchasers** will not challenge the validity of a **confirmed pricing methodology** or, where the **agreed auditor** has reported the application contains no material errors, its application.

**8.2 Transmission purchasers and Transpower customers will pay transmission charges**

Subject to rule 8.3, **transmission purchasers** will pay the **transmission price** for **transmission services** where that **transmission price** results from the application of the relevant **confirmed pricing methodology**, the application of which the **agreed auditor** has reported contains no material errors.

### **8.3 Other rights of Transmission purchasers not limited by this rule**

Nothing in this rule 8 limits the rights that might otherwise exist for a **transmission purchaser** to challenge a **transmission price** on any grounds other than the validity of the **confirmed pricing methodology** or, where the **agreed auditor** has reported the application contains no material errors, its application.