

Energy (Renewable Transformation and Jobs) Amendment Regulation 2024

Explanatory notes for Subordinate Legislation 2024 No. 105

made under the

Energy (Renewable Transformation and Jobs) Act 2024

General Outline

Short title

Energy (Renewable Transformation and Jobs) Amendment Regulation 2024

Authorising law

Sections 13, 18, 20, 28, 33, 86, 90, 130 and 177 of the *Energy (Renewable Transformation and Jobs) Act 2024*

Policy objectives and the reasons for them

The Queensland Energy and Jobs Plan (the Plan) and Queensland SuperGrid Infrastructure Blueprint (the Blueprint) outline the Government's vision and pathway to transform the State's electricity system to achieve 80 per cent renewable energy by 2035.

The *Energy (Renewable Transformation and Jobs) Act 2024* (the Act) – which was passed by Queensland Parliament on 18 April 2024 and received Royal Assent on 26 April 2024 – was a foundational step in implementing the Plan and Blueprint. It enshrined key commitments from the Plan in law, created the infrastructure frameworks needed for the transition, and established the governance and advisory bodies for the smooth and coordinated transformation of Queensland's energy system.

The Energy (Renewable Transformation and Jobs) Amendment Regulation 2024 (the Regulation) supports the operation of key elements of the Act. Particularly, it supports operation of the Job Security Guarantee (JSG) and Fund, Priority Transmission Investments (PTI) framework, and the Act's public ownership strategy provisions.

Job Security Guarantee and Fund

As part of Queensland's energy transformation, publicly owned coal-fired power stations will gradually be converted into Clean Energy Hubs, creating ongoing employment opportunities in those regional communities. The JSG and Fund will ensure support is available to affected energy workers at the State's publicly owned coal fired power stations and associated mines and enable these workers to take

advantage of emerging opportunities throughout the energy transformation. The JSG Fund could provide funding for personal support services, skills and training development, and/or relocation support. This support is on top of existing entitlements under an individual's enterprise agreement and implements commitments made in the Queensland Energy Workers' Charter (the Charter). The Energy Industry Council – a tripartite Council with government, publicly owned energy businesses and industrial organisation representatives – will provide advice to Government on implementation of the Job Security Guarantee.

Supporting Regulation is required to operationalise the JSG and Fund, with the Act providing for key additional matters to be prescribed by Regulation. The supporting Regulation is required to prescribe the 'prescribed facilities', enabling eligible workers at these sites to access the Fund, in line with commitments made in the Charter. The supporting Regulation is also required to prescribe the types of supports available under the Fund, eligibility for long term contractors and reporting requirements associated with payments from the Fund.

Priority Transmission Investments

The Act establishes the PTI framework to enable Government to deliver the transmission infrastructure that is part of the State's optimal infrastructure pathway, at the scale and according to timeframes identified in the Blueprint.

The Act delegates a number of matters to Regulation, including prescribing the eligible projects that may progress through the PTI framework and the declaration of PTI assessment documents.

The Act also contains a head of power for Regulations to enable the responsible Ministers to direct Powerlink to apply to the Australian Energy Regulatory (AER) include costs in respect of a PTI within Powerlink's existing revenue determination, future revenue determinations and regulatory asset base (RAB) (which are otherwise regulated by the AER under the National Electricity Rules (NER)). A Regulation is required to enable the responsible Ministers to make these directions, and to require the AER to include the directed amounts.

To provide additional flexibility to the responsible Ministers regarding how costs of the PTI are to be funded, through the financial directions, the responsible Ministers will have the ability to direct up to or less than the total efficient cost of the PTI to be included in the value of Powerlink's RAB and direct when it is to be included. This additional flexibility, to potentially reduce the amount of PTI capital costs included in Powerlink's RAB framework enables funding obtained through other means to partially fund the PTI.

Public Ownership

The Act requires the public ownership strategy to include a target of 100 per cent public ownership of transmission and distribution assets. Section 13 of the Act defines transmission and distribution assets and allows assets to be excluded from the definition by Regulation.

Achievement of policy objectives

The Regulation achieves these policy objectives by prescribing the necessary components to operationalise the JSG, PTI, and public ownership elements of the Act.

Job Security Guarantee and Fund

The Regulation will achieve the objectives of supporting the operation of the JSG provisions of the Act and providing support to affected energy workers, regardless of the chosen path, including supports to take advantage of new opportunities (e.g., one off payments to transition to new roles and supports to ensure affected energy workers can capture opportunities that emerge at Clean Energy Hubs).

Prescribed facilities

The Regulation prescribes both Kogan Creek Mine and Meandu Mine as 'prescribed facilities'. This enables eligible workers at these sites to access support through the Fund, implementing the commitment in the Charter to ensure support is available to eligible workers at these two associated mines.

Tenure requirements for non-government owned corporation workers

To ensure only long-term contractors are captured, the Act provides a Regulation making power to set a minimum amount of work over a specified period an individual must have performed on site to be eligible to receive support from the Fund. The Regulation outlines a tenure-based eligibility requirement for all non-government owned corporation (GOC) employees at the two associated mines (i.e., relevant prescribed energy workers) and at publicly owned coal-fired power stations (i.e., affected energy contractors).

Categories of support and eligibility

The Regulation lists the supports available to affected energy workers, and any eligibility requirements, to deliver on the objective of supporting affected energy workers through the energy transformation.

Other matters

The Regulation also establishes reporting requirements for entities that receive funding from the Fund. These requirements promote the transparency necessary to verify that the JSG and the Fund are operating as intended.

Priority Transmission Investments

The Regulation prescribes components needed to operationalise the PTI framework.

Prescribing transmission projects

The Regulation prescribes five significant transmission projects as eligible PTI projects. These projects were identified in the 2022 Blueprint and form part of the optimal infrastructure pathway.

Declaring assessment documents

Under the Act, PTI projects must be assessed against the 'assessment documents' prescribed by Regulation with the modifications the responsible Ministers consider

appropriate and minimal as practical. The Regulation prescribes three documents developed by the AER that together comprise the national Regulatory Investment Test for Transmission (RIT-T) (i.e., a prescriptive cost-benefit analysis under the national framework).

Cost recovery directions

The Regulation establishes three types of financial directions. These enable Powerlink to recover costs in respect of PTIs in line with the directions made by the responsible Ministers. The three financial directions are the primary PTI allowance direction, the RAB allocation direction, and the material change PTI direction.

The RAB allocation direction and material change PTI direction enable the responsible Ministers to decide the extent to which the PTI capital costs are included in the value of Powerlink's RAB, and the timing of these inclusions. These directions could allow for up to or less than the total efficient capital expenditure associated with a PTI to be included in Powerlink's RAB, which enables PTIs to be partially funded through other means.

To give effect to these directions, the Regulation derogates from the NER, enabling the responsible Ministers to direct the inclusions of amounts within Powerlink's revenue determination and RAB and for ongoing regulation in respect of those directed amounts by the AER.

Public Ownership

To fulfil the policy intent of capturing Queensland publicly owned distribution assets in the definition under the Act, the Regulation excluding the distribution assets along the Queensland-NSW border owned by Essential Energy (i.e., a state-owned electricity infrastructure company in NSW) that are subject to a prescribed special approval from the 100 per cent public ownership commitment in the Act.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

The Regulation is largely consistent with the policy objectives of other legislation, enabling the operationalisation of the Act.

In relation to PTI, some elements of the Regulation deviate from the national framework to ensure Queensland has the appropriate legislative environment to deliver the transformational transmission infrastructure at the scale and pace required. The PTI framework applies elements of the national framework, or modified elements in a way that is appropriate and as minimal as practical. As such, there is some inconsistency between the policy objectives of the PTI framework and the policy objectives of the National Electricity Law (NEL) and NER; however, inconsistencies have been minimised as much as possible.

Alternative ways of achieving policy objectives

The Regulation provides the only mechanism for achieving the policy objectives.

Benefits and costs of implementation

The Regulation supports operation of the PTI framework and JSG, which are critical for a smooth, coordinated energy transformation that supports workers, consistent with commitments in the Plan.

The PTI framework is anticipated to result in lower overall transmission costs and less impacts on communities by building the scale of transmission infrastructure required initially, rather than incrementally. There is also an ability to defer the recovery of the capital costs of PTI projects, or use various funding sources to reduce the capital costs for which electricity consumers pay, reducing the impact on Queensland electricity consumers.

Implementation of the JSG and Fund will provide substantial benefits – it will ensure affected energy workers have access to supports, enabling choice, security, and certainty. The Plan committed \$150 million for implementation of the JSG.

Consistency with fundamental legislative principles

The Regulation has been drafted having regard to the fundamental legislative principles (FLPs) in the *Legislative Standards Act 1992* and are generally consistent with these principles. Potential breaches are addressed below.

Rights and liberties of individuals

New penalty provision

The Regulation creates a new offence provision for anyone receiving payment from the Fund who fails to submit a report containing a summary of how the payment has been used. The maximum penalty is 10 penalty units.

It is an FLP that legislation has sufficient regard to the rights and liberties of individuals. When considering whether legislation has sufficient regard to the rights and liberties of individuals, consideration must be given to the penalty imposed for the offence to ensure it is proportionate and relevant to the act or omission constituting the offence.

The reporting requirements aim to enhance transparency regarding the allocation of funds from the Fund. The penalty provisions associated with these requirements are necessary to ensure recipients accurately document their expenditure, which promotes transparency. Accordingly, the offence provision serves to safeguard transparency and ensure payments from the Fund are directed towards activities and supports consistent with the objectives of the JSG.

The new penalty provision is considered appropriate and proportionate to the seriousness of the offence.

Financial directions

The Regulation establishes three types of financial directions associated with PTIs, which, when used, will impact how much and when Queensland electricity customers pay for costs associated with the construction, operation, and maintenance of PTIs. These financial directions, which can be enlivened by responsible Ministers, may potentially affect the rights and liberties of individuals through the flow through impacts of the directions on customer electricity bills. Under the current national regulatory framework, efficient costs associated with the construction, operation, and maintenance of transmission infrastructure that provides prescribed transmission service flow through to customers' electricity bills.

Potential infringement of the rights and liberties of individuals is appropriately limited by the following factors:

- Financial directions may only be made by the responsible Ministers jointly; and
- Financial directions may only be made in respect of declared PTIs. As required under the Act, PTIs can only be declared when:
 - the Minister is satisfied the project is part of Queensland's optimal infrastructure pathway and has been prescribed as an eligible PTI, which must be projects that help to meet the optimal infrastructure pathway objectives, including the long-term minimisation of costs for Queensland customers;
 - the project has been assessed (to compare a range of credible options and identify a preferred option that maximises the net economic benefit to all those who produce, consume and transport electricity in the National Electricity Market); and
 - the responsible Ministers have received advice/s by a suitably qualified person in relation to cost efficiency.

These factors ensure a decision to use a financial direction, and trigger recovery of costs, is made by the responsible Ministers based on the requirements set out in the Act.

Consultation

The Regulation underwent targeted consultation with relevant stakeholders. The PTI elements were provided to Powerlink and AER, and the JSG elements were provided to the interim Energy Industry Council. The Regulation was updated to incorporate stakeholder feedback, where appropriate.

Notes on provisions

Short title

Clause 1 states that this Regulation should be cited as the *Energy (Renewable Transformation and Jobs) Amendment Regulation 2024*.

Commencement

Clause 2 provides that this Regulation will commence on 1 July 2024.

Regulation amended

Clause 3 states that this Regulation amends the *Energy (Renewable Transformation and Jobs) Regulation 2024*.

Insertion of new pt 1, hdg

Clause 4 inserts 'Part 1 Preliminary' as a new heading before section 1.

Replacement of s 2 (Appointed council members—Act, s 130)

Clause 5 replaces section 2 of the *Energy (Renewable Transformation and Jobs) Regulation 2024* with a new section 2 that states the dictionary in Schedule 2 defines particular words used in the Regulation.

Insertion of new pts 2–5

Clause 6 inserts a new part 2, part 3, part 4 and part 5 after part 1 of the *Energy (Renewable Transformation and Jobs) Regulation 2024*.

Part 2 Job Security Guarantee Fund

Section 3 Amount of work performed—Act, s 86

Section 3 provides the amount of work required to be performed at one or more publicly owned coal-fired power station for an individual to satisfy a requirement of an affected energy contractor under section 86(4)(c) of the Act.

Two alternative thresholds are prescribed:

- 80 per cent of total work performed by the individual during a continuous 36-month period ending on the application day for the individual; or
- 100 per cent of total work performed by the individual during a continuous 24-month period ending on the application day for the individual.

An individual only needs to satisfy one of these tests to meet the requirement in section 86(4)(c).

Section 4 Prescribed facilities—Act, s 86

Section 4 provides for the Kogan Creek Mine and the Meandu Mine to be prescribed facilities for section 86(5)(b).

Section 5 Categories of costs for payments from fund—Act, s 90

Section 5 creates a new subset of prescribed energy worker, relevant prescribed energy worker. These are prescribed energy workers who work at prescribed facilities and perform work under a contract entered into directly with the operator of these facilities.

A relevant prescribed energy worker must have performed 80 per cent of their total work during a continuous 36-month period, or 100 per cent of their total work during a continuous 24-month period.

This section also prescribes the categories of costs payable from the Fund for affected energy workers under section 90(4) of the Act:

- Personalised support service costs mean the reasonable costs of providing support to an affected energy worker, when considering that individual's circumstances. Examples of this may include mental health support, financial and career planning, mentoring, or job-seeking support.
- Relocation support costs (co-funded) means relocation support costs of up to \$8,000 in total for each affected energy worker, provided the relocation is reasonably necessary for the worker to obtain employment.
- Relocation support costs means the reasonable costs of relocating an affected energy worker and the worker's spouse and dependents.
- Sector transition support costs means the reasonable costs for providing financial support or incentives to enable or incentivise an affected energy worker to transition to employment in a different sector. For example, this could include a one-off payment to support an affected energy worker transition to a new role.
- Skills support costs (co-funded) means skills support costs of up to \$15,000 in total for each affected energy worker.
- Skills support costs means the reasonable costs to assist an affected energy worker to undertake training or provide financial support for obtaining licences or other qualifications, to assist the worker in obtaining employment in the energy industry or another industry.
- Worker mobility support costs means the reasonable costs for providing financial support to assist an affected energy worker to undertake temporary work placements or another short-term employment opportunity to gain skills and experience.

For the categories of costs mentioned in subsection (1)(a) or (b), a payment from the Fund may be made to:

- A public sector entity under the *Public Sector Act 2022*;
- A publicly owned energy business under the Act, section 122; or
- An affected energy worker mentioned in the subsection.

The following affected energy workers are eligible to receive the categories of costs prescribed by this section.

Affected energy GOC workers are eligible to receive:

- personalised support service costs;
- skills support costs;
- relocation support costs;
- worker mobility support costs; and
- sector transition support costs.

Relevant prescribed energy workers and affected energy contractors are eligible to receive:

- personal support service costs;
- skills support costs (co-funded); and
- relocation support costs (co-funded).

The section also provides for other categories of costs to achieve the purposes of the Fund which include:

- Retention payments and incentives to ensure a sufficient number of workers have the necessary skills to ensure the safe and reliable operation of publicly owned coal-fired power stations, to the extent the power stations are required to support the achievement of the optimal infrastructure pathway objectives – payable to the entity operating the publicly owned coal-fired power station; and
- Funding for the Renewable Energy Jobs Advocate and the Energy Industry Council.

Section 5 also provides that a category of costs mentioned in subsection (1) does not include costs to the extent an amount is payable to a worker under an employment agreement, policy, or other entitlement. This is to ensure that support from the Fund supplements existing entitlements.

**Section 6 Matter to be considered for making payments from fund—
Act, s 90**

Section 6 provides an additional matter the chief executive and under-Treasurer must have regard to when deciding whether to make a payment from the Fund in relation to relocation support costs (co-funded) or skills support costs (co-funded).

Consideration must be given to the extent to which another entity proposes to contribute to the costs in relation to the individual.

Section 7 Requirement to report on expenditure—Act, s 90

Section 7 prescribes requirements for section 90(5)(a) of the Act, that must be complied with by an entity mentioned in section 5(3) that receives, in a financial year, an amount paid directly from the Fund.

The section provides an example of when an entity is taken to have received an amount directly from the Fund.

The direct recipient of the funds must, by 30 September after the end of the financial year, give the chief executive a report outlining how the payment has been used during that financial year.

The report given to the chief executive must include for that financial year, the total amount of funds received, the purpose for which the amounts were paid from the Fund, the amount of any unspent funds and any other details required under the Fund guideline.

The maximum penalty for failing to report to the chief executive is 10 penalty units.

**Part 3 General matters for priority transmission
investments**

Section 8 Declared documents—Act, s 18, definition *assessment documents*

Section 8 provides for certain documents to be declared assessment documents under the Act. Assessment documents form the basis of the cost-benefit assessment that the responsible Ministers may direct Powerlink to complete to identify a preferred option to meet the identified need for a priority transmission investment. The assessment documents declared by this section are:

- The document titled 'Regulatory investment test for transmission' which specifies the form of the cost-benefit assessment and how the inputs and assumptions to the assessment should be determined;

- The document titled 'Cost benefit analysis guidelines / Guidelines to make the integrated system plan actionable' which provides detailed guidance on how to apply the RIT-T to a RIT-T project which is an actionable ISP project; and
- The document titled 'Regulatory investment test for transmission / Application guidelines' which provides detailed guidance on how to apply the RIT-T to a RIT-T project which is not an actionable ISP project.

The declaration of assessment documents excludes any part of these documents that relates to a dispute about the application or reapplication of the RIT-T.

Section 9 Eligible priority transmission investments—Act, s 20

Section 9 prescribes the following projects as eligible PTIs for the purposes of section 20(1) of the Act:

- the project called 'Stage 1: Borumba connection';
- the project called 'Stage 2: Central Queensland connection';
- the project called 'Stage 3: Pioneer-Burdekin PHES and NQ connection';
- the project called 'Stage 4: Townsville to Hughenden connection'; and
- the project known as the 'Gladstone project' for the reinforcement of the Gladstone system to support decarbonisation of the region, other than the second circuit upgrade to enable further REZ capacity in the Banana Range.

Section 10 Application of National Electricity Rules—Act, s 33

Section 10 provides that Schedule 1 states the modifications of the NER for the purposes of applying the modified NER in relation to a PTI under section 33(4) of the Act.

Part 4 Financial matters for priority transmission investments

Division 1 Preliminary

Section 11 Purpose of part

Section 11 states that the purpose of Part 4 of the Regulation is to prescribe financial matters for PTI under section 28 of the Act.

Section 12 Definitions for part

Section 12 provides relevant definitions for Part 4 of the Regulation.

Section 13 Interpretation of particular terms—National Electricity Rules

Section 13 provides that other terms which are used in Part 4 and the NER, but not defined in Part 4, are intended to have the same meaning as the terms in the NER, subject to section 10.

Section 14 AER may modify application of capital expenditure sharing scheme

Section 14 applies if a capital expenditure sharing scheme developed by the AER (as provided for under the NER) does not take into account the interaction of that scheme with the operation of Part 4. In applying the capital expenditure sharing scheme to Powerlink, the AER may take into account the operation of Part 4.

Division 2 Primary PTI allowance directions

Subdivision 1 Requirement to give direction

Section 15 Requirement to give primary PTI allowance direction

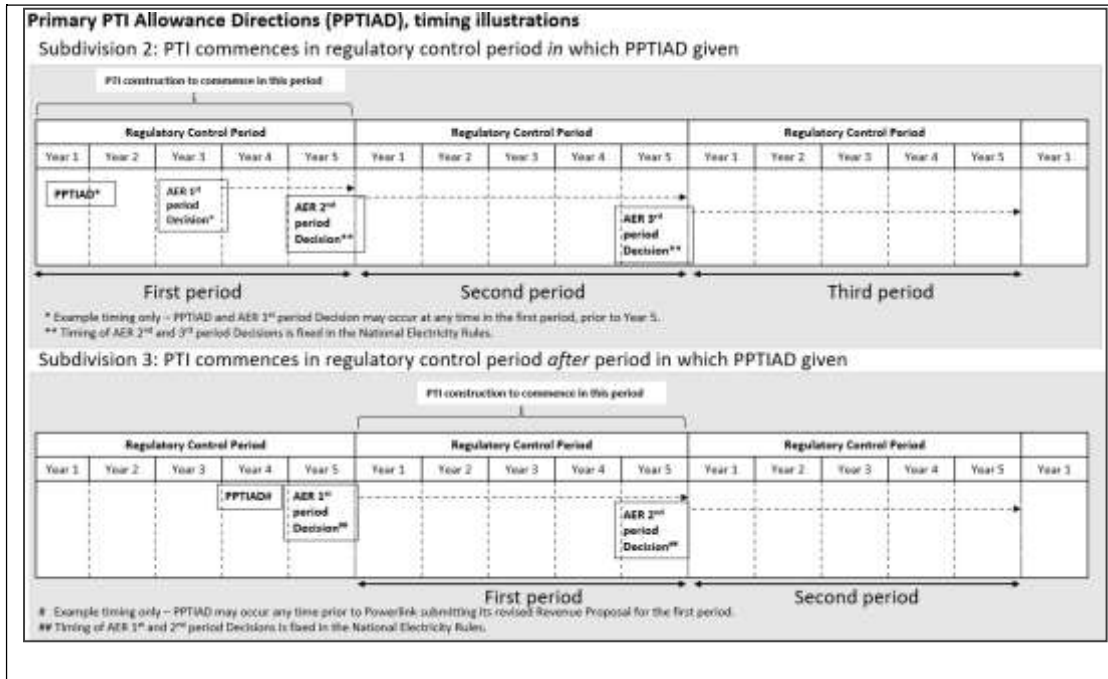
Section 15 applies if the responsible Ministers have directed Powerlink to construct a priority transmission investment.

The responsible Ministers must, at the same time, direct Powerlink to apply to the AER to amend or make a revenue determination that accounts for the capital expenditure and operating expenditure associated with the priority transmission investment.

This type of direction is called a *primary PTI allowance direction*.

A primary PTI allowance direction can take two forms: (1) a direction that in the first instance requires Powerlink to apply to amend its revenue determination, and (2) a direction that in the first instance has the effect of requiring the inclusion of PTI amounts in Powerlink's revenue proposal.

The appropriate form to use, depends on whether the primary PTI allowance direction and the start date for the priority transmission investment occur in the same regulatory control period or not.



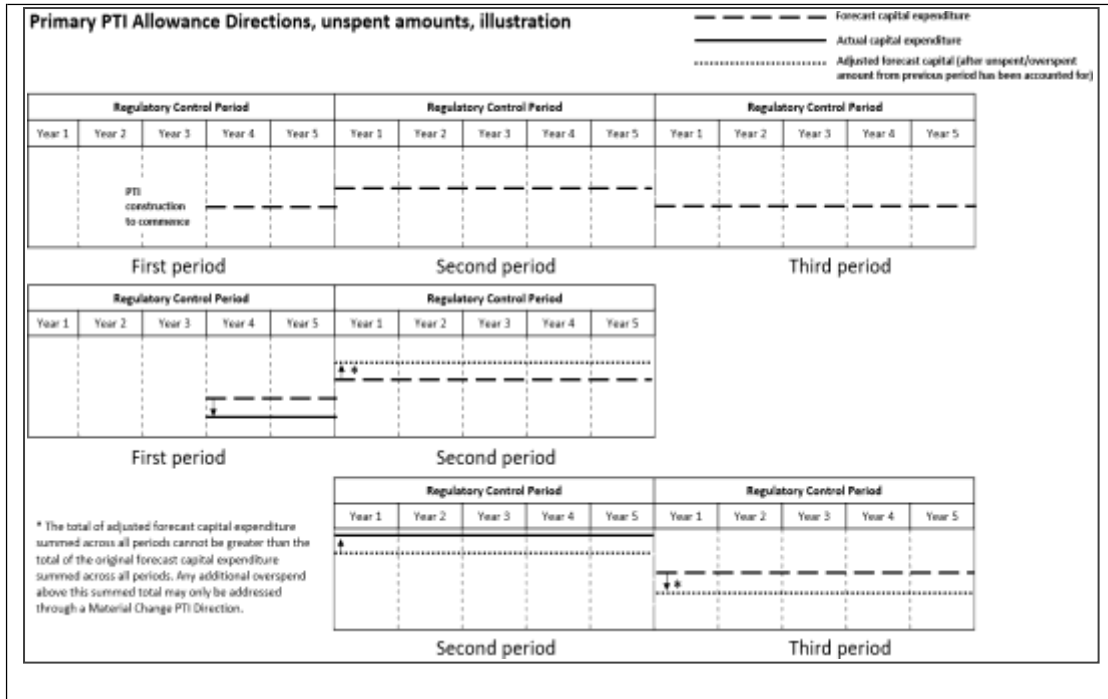
A primary PTI allowance direction must (regardless of which form is chosen):

- describe the investment;
- state the anticipated completion date of the investment; and
- include either a requirement under section 18 – which has the effect of requiring Powerlink to apply to amend its revenue determination (and to include amounts in subsequent revenue proposals) to allow for expenditure related to the investment; or one of either the requirements under section 28 or section 29 – which have the effect of including expenditure related to the investment in Powerlink’s revenue proposal.

Relationship between forecast capital expenditure and actual capital expenditure for a Primary PTI allowance direction

A primary PTI allowance direction provides forecast capital expenditure allowances for each regulatory year during construction of the PTI, until it is completed.

At the end of each regulatory control period, the forecast capital expenditure is compared to actual capital expenditure. The gap between these two figures is tallied and reflected as a single amount in the next regulatory control period i.e., if the amount is negative, it will reduce the forecast capital expenditure for the next period, if the amount is positive, it will increase the forecast capital expenditure for the next period. In this way, the subsequent periods are adjusted by the previous period/s over and/or under spends.



Subdivision 2 Anticipated start date occurs in regulatory control period during which direction is given

Section 16 Application of subdivision

Section 16 applies if the primary PTI allowance direction is given during the same regulatory control period as the anticipated start date for the priority transmission investment (i.e., this subdivision relates to a primary PTI allowance direction, made under subdivision 1, which in the first instance has the effect of requiring Powerlink to apply to amend an existing revenue determination). In this subdivision this period is called the *first period*.

Section 17 Definitions for subdivision

Section 17 provides relevant definitions for Part 4, subdivision 2 of the Regulation.

Section 18 Primary PTI allowance direction—first, second and third periods

Section 18 provides that a primary PTI allowance direction may require Powerlink to apply to the AER for an amendment of its revenue determination for the first period.

- If the investment’s anticipated completion date occurs in the regulatory control period immediately following the first period (in this subdivision this is called the *second period*), the primary PTI allowance direction may also require Powerlink to include in the application stated amounts relating to the investment in its revenue proposal for the second period.

- If the investment's anticipated completion date occurs in the regulatory control period immediately following the second period (in this subdivision this is called the *third period*), then the direction may also require Powerlink to include in the application stated amounts relating to the investment in its revenue proposal for the second period and third period.

The primary PTI allowance direction may require Powerlink's application to the AER to state:

- The forecast of the total capital expenditure for the investment stated in the direction. This amount is called the *directed forecast capital expenditure*.
- The forecast of the capital expenditure and incremental operating expenditure for the investment stated in the direction for:
 - each remaining regulatory year of the first period; and
 - each regulatory year of any second period, and any third period.
- The date Powerlink commenced construction or the anticipated start date of the investment.
- The anticipated completion date for the investment.
- An estimate of the incremental revenue Powerlink considers it likely needs to earn in each remaining regulatory year of the first period as a result of the construction of the investment.

If Powerlink makes an application in accordance with a primary PTI allowance direction under this section, Powerlink must give the AER any further documents or information the AER reasonably requires to deal with the application, in the form required by the AER.

Section 19 Action AER must take in first period

Section 19 provides for actions the AER must take, in the first period only, if Powerlink makes an application in accordance with a primary PTI allowance direction mentioned in section 18.

As soon as practicable after receiving the application, the AER must amend Powerlink's revenue determination for the first period in four ways:

- adjust Powerlink's forecast capital expenditure to accommodate the forecast total capital expenditure for the investment for each remaining regulatory year of the first period stated in the application;
- adjust Powerlink's forecast operating expenditure to accommodate the total incremental operating expenditure for the investment stated in the application;

- for each of the following, adjust for each remaining regulatory year of the first period, to reflect the effect of the increase in Powerlink's forecast operating expenditure including any necessary consequential adjustment to Powerlink's annual building block revenue requirement:
 - Powerlink's Maximum Allowed Revenue (MAR) (as this term is used in the NER); and
 - the X factor (as this term is used in the NER. Note: once the AER has determined a Transmission Network Service Provider's annual building block revenues the revenue over the regulatory period is smoothed using a forecast for inflation and a fixed offset from that forecast – the CPI-X methodology, or X-factor. The purpose of the X-factor is that once the MAR for the first year is set by the AER, the MAR for subsequent years can be determined by simply adjusting the prior year MAR by the actual CPI and the X factor); and
- adjust the values to be attributed to the capital expenditure sharing scheme and efficiency benefit sharing scheme, to reflect the increase in Powerlink's forecast capital expenditure and forecast operating expenditure.

This section also clarifies that:

- if Powerlink's revenue determination is amended under this subsection, it will take effect at the beginning of the regulatory year immediately after the regulatory year the amendment is made. Powerlink's regulatory year commences 1 July and ends 30 June;
- a reference to a revenue determination in the NER includes a reference to Powerlink's revenue determination that has been amended under subsection (2); and
- for the capital expenditure sharing scheme mentioned in subsection (2)(d), the actual capital expenditure for the provision of prescribed transmission services for the first period is taken to include Powerlink's actual capital expenditure relating to the investment.

Section 20 Obligations of AER for second period if s 18(2) applies

Section 20 provides for actions the AER must take if Powerlink includes forecast capital expenditure or forecast operating expenditure for the second period in its application to the AER in accordance with a primary PTI allowance direction made under section 18(4)(c).

Without limiting the matters the AER must normally publish in a draft decision under the NER the AER must also publish the amounts of the forecast capital expenditure and the forecast operating expenditure relating to the priority transmission investment that are to be included in the revenue determination for the second period.

In making its final decision on Powerlink's revenue proposal and its revenue determination for Powerlink for the second period the AER must take the following actions in respect of the forecast capital expenditure and forecast operating expenditure included in the application:

1. In relation to the forecast capital expenditure included in the revenue proposal the AER must:
 - (i) ensure the expenditure is adjusted under the post-tax revenue model applied by the AER as part of its revenue determination, and if necessary other economic regulatory models, in a way that is, to the extent practical, consistent with the AER's treatment of other forecast capital expenditure for the revenue proposal for the second period;
 - (ii) accept that adjusted expenditure, together with the first period adjustment under section 23, in its final decision; and
 - (iii) include the expenditure in the capital expenditure within the revenue determination for Powerlink for the second period.
2. In relation to the forecast operating expenditure included in the revenue proposal the AER must:
 - (i) ensure the expenditure is adjusted under the post-tax revenue model, and if necessary other economic regulatory models, in a way that is, to the extent practical, consistent with the AER's treatment of other forecast operating expenditure for the revenue proposal for the second period;
 - (ii) accept that adjusted expenditure in its final decision; and
 - (iii) include the expenditure in the operating expenditure within the revenue determination for Powerlink for the second period.

Each adjustment of forecast capital expenditure and forecast operating expenditure made under the post-tax revenue model must have regard to the requirements of any relevant regulatory information instrument that applies to Powerlink for a regulatory control period.

The resulting forecast operating expenditure included in the revenue determination is taken to be included as part of the building block in Powerlink's annual building block revenue requirement for the second period as if it had been accepted by the AER under the NER. This deeming is necessary as otherwise the NER limits the circumstances in which the AER may accept or substitute the forecast operating expenditure in the annual building block revenue requirement.

Capital and operating expenditure amounts included in a revenue proposal must be presented in the manner required by any relevant regulatory information instrument. This typically includes a requirement to present all expenditure on a consistent basis in real terms – that is adjusting for the effects of inflation between when forecasts are first developed and when the revenue

proposal is submitted. The post-tax revenue model adjusts the expenditure forecasts for forecast inflation as part of the AER's revenue determination process. In this way the effect of inflation on expenditure forecasts can be reflected in the revenue received by the network business.

Section 21 Obligations of AER for third period if s 18(3) applies

Section 21 provides for actions the AER must take if Powerlink includes forecast capital expenditure or forecast operating expenditure for the third period in its application to the AER in accordance with a primary PTI allowance direction made under section 18(4)(d).

Without limiting the matters the AER must normally publish in a draft decision under the NER, the AER must also publish the amounts of the forecast capital expenditure and the forecast operating expenditure relating to the priority transmission investment that are to be included in the revenue determination for the third period.

In making its final decision on Powerlink's revenue proposal and its revenue determination for Powerlink for the third period the AER must take the following actions in respect of the forecast capital expenditure and forecast operating expenditure included in the application:

1. In relation to the forecast capital expenditure included in the revenue proposal the AER must:
 - (i) ensure the expenditure is adjusted under the post-tax revenue model, and if necessary other economic regulatory models, in a way that is, to the extent practical, consistent with the AER's treatment of other forecast capital expenditure for the revenue proposal for the third period;
 - (ii) accept that adjusted expenditure, together with the second period adjustment under section 25, in its final decision; and
 - (iii) include the expenditure in the capital expenditure within the revenue determination for Powerlink for the third period.
2. In relation to the forecast operating expenditure included in the revenue proposal the AER must:
 - (i) ensure the expenditure is adjusted under the post-tax revenue model, and if necessary other economic regulatory models, in a way that is, to the extent practical, consistent with the AER's treatment of other forecast operating expenditure for the revenue proposal for the third period;
 - (ii) accept that adjusted expenditure in its final decision; and
 - (iii) include the expenditure in the operating expenditure within the revenue determination for Powerlink for the third period.

Each adjustment of forecast capital expenditure and forecast operating expenditure made under the post-tax revenue model must have regard to the requirements of any relevant regulatory information instrument that applies to Powerlink for a regulatory control period.

The resulting forecast operating expenditure included in the revenue determination is taken to be included as part of the building block in Powerlink's annual building block revenue requirement for the third period as if it had been accepted by the AER under the NER. This deeming is necessary as otherwise the NER limits the circumstances in which the AER may accept or substitute the forecast operating expenditure in the annual building block revenue requirement.

Capital and operating expenditure amounts included in a revenue proposal must be presented in the manner required by any relevant regulatory information instrument. This typically includes a requirement to present all expenditure on a consistent basis in real terms – that is adjusting for the effects of inflation between when forecasts are first developed and when the revenue proposal is submitted. The post-tax revenue model adjusts the expenditure forecasts for forecast inflation as part of the AER's revenue determination process. In this way the effect of inflation on expenditure forecasts can be reflected in the revenue received by the network business.

Section 22 Powerlink must include first period adjustment in revenue proposal for second period

Section 22 provides that if the AER has amended Powerlink's revenue determination for the first period and the anticipated completion date for the investment occurs after the first period then Powerlink must include any first period adjustment in the forecast capital expenditure stated in its revenue proposal for the second period.

The first period adjustment is the difference between the forecast capital expenditure for the priority transmission investment for the first period stated in Powerlink's application under a requirement under section 18(4)(b), and the actual or estimated capital expenditure for the priority transmission investment as at the end of the first period. Estimated capital expenditure will be used when the actual capital expenditure is not known at the time a revenue proposal is submitted to the AER.

Section 23 AER must accept and include Powerlink's first period adjustment for second period if s 22 applies

Section 23 applies if Powerlink's application made in compliance with a primary PTI allowance direction mentioned in section 18 includes forecast capital expenditure for the second period and Powerlink gives the AER a revenue proposal for the second period that includes a first period adjustment under section 22. The AER must accept the adjustment in its final decision and include

that expenditure in the capital expenditure in the revenue determination for Powerlink for the second period.

Section 24 Powerlink must include second period adjustment if anticipated completion date occurs in third regulatory period

Section 24 provides that if the AER has amended Powerlink's revenue determination for the first period and made Powerlink's revenue determination for the second period, and the anticipated completion date for the investment is during the third period, then Powerlink must include any second period adjustment in the forecast capital expenditure stated in its revenue proposal for the third period.

The second period adjustment is the difference between the forecast capital expenditure for the priority transmission investment for the second period stated in Powerlink's application under a requirement under section 18(4)(c), and the actual or estimated capital expenditure for the priority transmission investment during the second period. Estimated capital expenditure will be used when the actual capital expenditure is not known at the time a revenue proposal is submitted to the AER.

Section 25 AER must accept and include Powerlink's second period adjustment for third period if s 24 applies

Section 25 applies if Powerlink's application made in compliance with a primary PTI allowance direction mentioned in section 18 includes forecast capital expenditure for the third period and Powerlink gives the AER a revenue proposal for the third period that includes a second period adjustment under section 24. The AER must accept the adjustment in its final decision and include that expenditure in the capital expenditure in the revenue determination for Powerlink for the third period.

Subdivision 3 Anticipated start date occurs in regulatory control period after period during which direction given

Section 26 Application of subdivision

Section 26 provides that Subdivision 3 applies to a primary PTI allowance direction if the anticipated start date for the priority transmission investment is during the regulatory control period immediately after the regulatory control period during which the direction is given (i.e., a primary PTI allowance direction, which, in the first instance, has the effect of requiring Powerlink to include PTI amounts in its revenue proposal). The regulatory control period during which the anticipated start date falls is referred to in this subdivision as the first period.

Section 27 Definitions for subdivision

Section 27 provides relevant definitions for this subdivision.

Section 28 Primary PTI allowance direction—first period

Section 28 provides that a primary PTI allowance direction to which this subdivision applies may require Powerlink to include the forecast capital and operating expenditure which the responsible Ministers are satisfied is required in relation to the priority transmission investment in its revenue proposal to the AER for the first period. These amounts are referred to as directed forecast capital expenditure and directed forecast operating expenditure respectively.

If Powerlink has already submitted its revenue proposal for the first period to the AER when the primary PTI allowance direction is given, the direction may require Powerlink to include the directed forecast capital and operating expenditure in a revised revenue proposal. The primary PTI allowance direction may only include this requirement if Powerlink has not already submitted a revised revenue proposal to the AER.

Powerlink must include the directed forecast capital and operating expenditure in its revenue proposal or revised revenue proposal for the first period whether or not the directed forecast capital expenditure meets the capital expenditure objectives and whether or not the directed forecast operating expenditure meets the operating expenditure objectives as those terms are used in the NER (but see Schedule 1, s 3 “Clause 6A.6.6”).

Section 29 Primary PTI allowance direction—second period

Section 29 provides that if a primary PTI allowance direction to which this subdivision applies states an anticipated completion date for the investment during the regulatory control period immediately following the first period, referred to in this subdivision as the second period, the direction may require Powerlink to include the forecast capital and operating expenditure which the responsible Ministers are satisfied is required in relation to the priority transmission investment in its revenue proposal to the AER for the second period. These amounts are referred to as directed forecast capital expenditure and directed forecast operating expenditure respectively.

Powerlink must include the directed forecast capital and operating expenditure in its revenue proposal for the second period, whether or not the directed forecast capital expenditure meets the capital expenditure objectives, and whether or not the directed forecast operating expenditure meets the operating expenditure objectives.

Section 30 Obligations of AER for first period if s 28 applies

Section 30 provides for actions the AER must take if Powerlink includes directed forecast capital expenditure or directed forecast operating expenditure in a

revenue proposal (as that term is used in the NER, which includes a revised revenue proposal) for the first period.

Without limiting the matters the AER must ordinarily include in its draft decision on Powerlink's revenue proposal for the first period the AER must publish the directed forecast capital and operating expenditure to be accounted for in the revenue determination for the first period that relates to the priority transmission investment.

In relation to the directed forecast capital expenditure included in the revenue proposal, the AER must:

- ensure the expenditure is adjusted under the post-tax revenue model, and if necessary other economic regulatory models, in a way that is, to the extent practical, consistent with the AER's treatment of other forecast capital expenditure for the revenue proposal for the first period;
- accept that adjusted expenditure in its final decision; and
- include the expenditure in the capital expenditure within the revenue determination for Powerlink for the first period.

In relation to the directed forecast operating expenditure included in the revenue proposal the AER must:

- ensure the expenditure is adjusted under the post-tax revenue model, and if necessary other economic regulatory models, in a way that is, to the extent practical, consistent with the AER's treatment of other forecast operating expenditure for the revenue proposal for the first period;
- accept that adjusted expenditure in its final decision; and
- include the expenditure in the operating expenditure within the revenue determination for Powerlink for the first period.

Each adjustment of forecast capital expenditure and forecast operating expenditure made under the post-tax revenue model must have regard to the requirements of any relevant regulatory information instrument that applies to Powerlink for a regulatory control period.

The resulting forecast operating expenditure included in the revenue determination is taken to be included as part of the building block in Powerlink's annual building block revenue requirement for the first period as if it had been accepted by the AER under the NER. This deeming is necessary as otherwise the NER limits the circumstances in which the AER may accept or substitute the forecast operating expenditure in the annual building block revenue requirement.

Capital and operating expenditure amounts included in a revenue proposal must be presented in the manner required by any relevant regulatory information instrument. This typically includes a requirement to present all expenditure on a consistent basis in real terms – that is adjusting for the effects

of inflation between when forecasts are first developed and when the revenue proposal is submitted. The post-tax revenue model adjusts the expenditure forecasts for forecast inflation as part of the AERs revenue determination process. In this way the effect of inflation on expenditure forecasts can be reflected in the revenue received by the network business.

Section 31 Obligations of AER for second period if s 29 applies

Section 31 provides for actions the AER must take if Powerlink includes directed forecast capital expenditure or directed forecast operating expenditure in a revenue proposal for the second period.

Without limiting the matters the AER must ordinarily include in its draft decision on Powerlink's revenue proposal for the second period the AER must publish the directed forecast capital and operating expenditure to be accounted for in the revenue determination for the second period that relates to the priority transmission investment.

In relation to the directed forecast capital expenditure included in the revenue proposal, the AER must:

- ensure the expenditure is adjusted under the post-tax revenue model, and if necessary other economic regulatory models, in a way that is, to the extent practical, consistent with the AER's treatment of other forecast capital expenditure for the revenue proposal for the second period;
- accept that adjusted expenditure, together with the first period adjustment under section 33, in its final decision; and
- include the expenditure in the capital expenditure within the revenue determination for Powerlink for the second period.

In relation to the directed forecast operating expenditure included in the revenue proposal, the AER must:

- ensure the expenditure is adjusted under the post-tax revenue model, and if necessary other economic regulatory models, in a way that is, to the extent practical, consistent with the AER's treatment of other forecast operating expenditure for the revenue proposal for the second period;
- accept that adjusted expenditure in its final decision; and
- include the expenditure in the operating expenditure within the revenue determination for Powerlink for the second period.

The resulting forecast operating expenditure included in the revenue determination is taken to be included as part of the building block in Powerlink's annual building block revenue requirement for the second period as if it had been accepted by the AER under the NER. This deeming is necessary as otherwise the NER limits the circumstances in which the AER may accept or substitute the forecast operating expenditure in the annual building block revenue requirement.

Capital and operating expenditure amounts included in a revenue proposal must be presented in the manner required by any relevant regulatory information instrument. This typically includes a requirement to present all expenditure on a consistent basis in real terms – that is adjusting for the effects of inflation between when forecasts are first developed and when the revenue proposal is submitted. The post-tax revenue model adjusts the expenditure forecasts for forecast inflation as part of the AERs revenue determination process. In this way the effect of inflation on expenditure forecasts can be reflected in the revenue received by the network business.

Section 32 Powerlink must include first period adjustment in revenue proposal for second period

Section 32 applies if Powerlink has commenced construction of the priority transmission investment during the first period, the anticipated completion date is during the second period, and the AER has accepted the forecast capital and operating expenditure for the first period under section 30(3).

The first period adjustment is the difference between the forecast capital expenditure for the priority transmission investment for the first period directed by the responsible Ministers, and the actual or estimated capital expenditure for the priority transmission investment as at the end of the first period. Estimated capital expenditure will be used when the actual capital expenditure is not known at the time a revenue proposal is submitted to the AER.

Powerlink must include any first period adjustment in the forecast capital expenditure in its revenue proposal for the second period.

Section 33 AER must accept and include Powerlink’s first period adjustment

Section 33 applies if Powerlink gives the AER a revenue proposal for the second period that includes a first period adjustment under section 32. The AER must accept the adjustment in its final decision and include that expenditure in the capital expenditure in the revenue determination for Powerlink for the second period.

Division 3 Regulatory asset base allocation directions

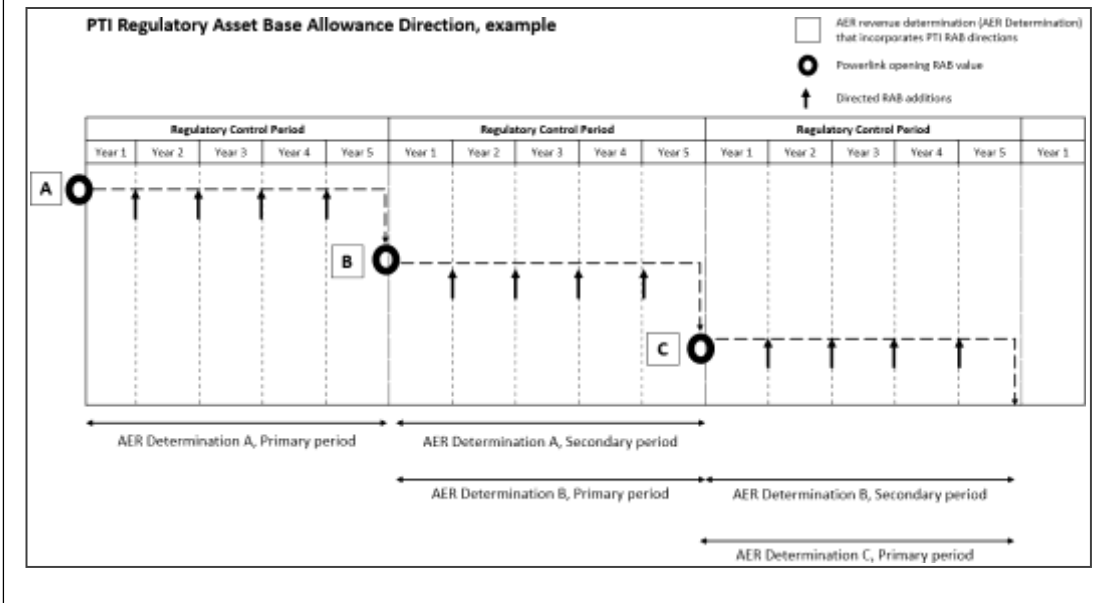
Section 34 Regulatory asset base allocation direction

Section 34 provides that if the responsible Ministers give Powerlink a primary PTI allowance direction, they must also, at the same time, give Powerlink a direction about adjusting the value of Powerlink’s RAB.

This direction is referred to as a *RAB allocation direction*.

A RAB allocation direction allows the responsible Ministers to specify the extent to which and timing of when a priority transmission investment’s capital expenditure is to be included in the value of Powerlink’s RAB.

A RAB allocation direction includes one or more stated parts of a priority transmission investment’s forecast capital expenditure (called directed forecast capital expenditure) into Powerlink’s existing RAB, at the end of each regulatory control year.



A RAB allocation direction requires Powerlink to apply to the AER to have the directed amounts of capital expenditure included in the value of Powerlink’s RAB. The direction must specify how much of the directed forecast capital expenditure for the priority transmission investment is to be included in the value of the RAB. This may be all of the directed forecast capital expenditure or just specified parts. The direction must also specify in which years the stated amounts are to be included, and which asset types or asset classes those amounts are to be included with.

When making the relevant application to the AER, Powerlink must include a copy of the RAB allocation direction with the application.

Section 35 Action AER must take in relation to Powerlink’s application

Section 35 provides for the actions the AER must take when Powerlink applies to the AER to adjust the value of the Powerlink RAB in accordance with a RAB allocation direction. The section applies where the years in which the value of the RAB is to be adjusted fall within a regulatory control period that is affected by a primary PTI allowance direction. That is, a regulatory control period during which the priority transmission investment is being constructed. A regulatory control period which meets this criterion is referred to in this section as a primary

period. A regulatory control period immediately following a primary period is referred to in this period as a secondary period.

The AER is required to:

1. adjust the value of Powerlink's RAB in each relevant year of the primary period to include the specified amount of forecast capital expenditure. If the corresponding primary PTI allowance direction requires Powerlink to apply to amend its current revenue determination, the adjustments will apply to each remaining year of the regulatory control period. In every other case, the adjustments apply to each year of the regulatory control period after the first year. Where the AER is making a revenue determination, that is not amending the current revenue determination, then no adjustment is needed to the first year of the regulatory control period. This is because the AER will already set the value of the RAB at the start of that first year based on capital expenditure from the last year of the previous regulatory control period;
2. determine the value of the RAB at the start of the first year of the secondary period. When doing this the AER is to include the lesser of the directed forecast capital expenditure for the priority transmission investment in the primary period and the actual capital expenditure up to the end of the primary period. If the actual capital expenditure for the priority transmission investment is not known for any year, then the forecast capital expenditure for that year is used instead; and
3. determine the value of the RAB at the start of the first year of the regulatory period immediately following the secondary period. When doing this the AER is to account for any difference between the actual capital expenditure up to the end of the primary period and any forecast capital expenditure that was previously used because the actual capital expenditure was not available.

The amounts to be included in the value of Powerlink's RAB in any specified year of the primary period must be calculated in the same way as other Powerlink assets, having regard to the requirements of any relevant regulatory information instrument. This is done using the post-tax revenue model as specified in the NER and includes allowance for the normal economic regulatory treatment of matters such as inflation, depreciation, and time value of money.

The actual capital expenditure for the last year of a primary period will not normally be known at the time the AER sets the opening RAB value for the start of the corresponding secondary period. This is because the NER requires the AER to make a revenue determination for a regulatory control period at least two months before the start of that regulatory control period. In these circumstances the AER must use an estimate of the final year capital expenditure to set the opening RAB value. This estimated value is then adjusted for the corresponding actual capital expenditure at the time of the subsequent revenue determination.

The AER may only include amounts associated with PTI in the value of Powerlink's RAB as determined under this section. Even if the NER would allow for a greater amount to be included, the AER is limited by the amounts specified by the responsible Ministers in the RAB allocation direction.

The amounts to be included in the value of Powerlink's RAB at the start of the first year of the secondary period or the start of the first year of the regulatory control period immediately following the secondary period must be calculated in the same way as other Powerlink assets, having regard to the requirements of any regulatory information instrument that applies to Powerlink for a regulatory control period. This is done using the AER's roll forward model as specified in the NER and includes allowance for the normal economic regulatory treatment of matters such as inflation, depreciation, and time value of money.

Section 36 Obligations of AER for other regulatory control periods

Section 36 provides for the actions the AER must take when Powerlink applies to the AER to adjust the value of the Powerlink RAB in accordance with a RAB allocation direction. The section applies where the years in which the value of the RAB is to be adjusted do not fall within a regulatory control period that is affected by a primary PTI allowance direction. That is, a regulatory control period after the construction of the priority transmission investment has finished. A regulatory control period which meets this criterion is referred to in this section as a primary period. A regulatory control period immediately following a primary period is referred to in this section as a secondary period.

The AER is required to adjust the value of Powerlink's RAB for each year of the secondary period to include the lesser of the directed forecast capital expenditure amount directed to be included in the value of the RAB and the total actual or estimated capital expenditure up to the end of the primary period.

The amounts to be included in the value of Powerlink's RAB must be calculated in the same way as other Powerlink assets, having regard to the requirements of any regulatory information instrument that applies to Powerlink for a regulatory control period. This is to be done using the AER's roll forward model as specified in the NER and includes allowance for the normal economic regulatory treatment of matters such as inflation, depreciation, and time value of money.

Section 37 Declarations for National Electricity Rules

Section 37 provides for certain declarations to be made regarding the effect that this Regulation has on the operation of certain clauses of the NER relating to the nature of the RAB and its value.

These declarations are necessary to ensure that the normal operation of the NER recognises and adopts the adjustments made to the value of Powerlink's RAB under this Regulation as though the value of the RAB was set under the NER.

Clauses 6A.6.1(a), S6A.2.1(f)(4) and S6A.2.1(f)(8) of the NER limit the value of the RAB as well as the value of any additions to the RAB to the value of those assets used to provide prescribed transmission services. For the purposes of these NER clauses, the value of Powerlink's RAB, as it has been adjusted under this Regulation, is taken to be the value of the RAB used to provide prescribed transmission services.

Clauses 6A.6.2 and 6A.6.3 of the NER determine those parts of Powerlink's building block revenue that are based on the value of Powerlink's RAB. For the purposes of these NER clauses, the value of the RAB is taken to be the value of Powerlink's RAB as it has been adjusted under this Regulation.

Division 4 Material change PTI directions

Section 38 Material change PTI direction

Section 38 provides the responsible Ministers with the ability, after a priority transmission investment has been completed, to alter the timing and/or the size of the adjustments to be made to the value of Powerlink's RAB.

This opportunity to make further adjustments to the value of Powerlink's RAB is only available if the responsible Ministers are satisfied that there has been a material change in the circumstances since the primary PTI allowance direction and the RAB allocation direction were given. The only allowable circumstances are:

- there has been a significant change in the circumstances on which the optimal infrastructure pathway of the Blueprint is based;
- there has been a significant change in the circumstances on which the optimal development path of the Integrated System Plan is based; or
- actual capital expenditure for the priority transmission investment is greater than the directed amount and all or some of the additional expenditure was incurred efficiently.

Powerlink must also have given the responsible Ministers a written notice advising the day the priority transmission investment was completed.

Before deciding whether any additional expenditure on the investment was incurred efficiently the responsible Ministers must seek advice from a suitably qualified person.

If the responsible Ministers are satisfied that any one or more of the prescribed changes in circumstances have occurred, they may direct Powerlink to apply to the AER to make further adjustments to the value of Powerlink's RAB. This direction is referred to as a material change PTI direction. A material change PTI direction may only be made within 18 months of the date on which Powerlink notifies the responsible Ministers of the completion of the PTI project.

In addition to including a description of the PTI and its date of completion a material change PTI direction may require Powerlink to apply to the AER to adjust the value of Powerlink's RAB in specific years or to change the year in which adjustments are made to the value of Powerlink's RAB. It may also require Powerlink to identify which asset types or classes those amounts are to be included with.

There are limits to the total amount of capital expenditure that can be stated to be included in the value of Powerlink's RAB. If Powerlink has spent more than the directed amount then only the amount that the responsible Ministers are satisfied was incurred efficiently may be included in the value of the RAB, and in any event no more than the total amount of additional expenditure. In all circumstances the total amount of capital expenditure included in the value of Powerlink's RAB cannot be greater than the total amount of actual capital expenditure of the priority transmission investment.

Section 39 Obligations of AER for material change PTI direction

Section 39 provides that if Powerlink applies to the AER under a material change PTI direction, the AER must make the adjustments to the value of Powerlink's RAB that are stated in the application. The AER must make or amend a revenue determination to reflect the effect of the adjustments on both Powerlink's MAR and the X factor or factors used for smoothing revenue over the regulatory control period.

Where additional amounts of capital expenditure are to be included in the value of Powerlink's RAB, or there are changes to the timing of when amounts are to be included in the value of Powerlink's RAB, the AER must make the adjustments as stated in the application.

The AER is required to amend Powerlink's current revenue determination for the regulatory control period in which the material change direction is given to reflect the effect of the RAB adjustments on Powerlink's MAR and X factors for that period. When making revenue determinations for each subsequent regulatory control period stated in the application, the AER must reflect the effect of the RAB adjustments on Powerlink's MAR and X factors for each relevant regulatory control period.

If the value of Powerlink's RAB is adjusted or changed for a regulatory year, the value of Powerlink's RAB for that year must be calculated in the same way as other Powerlink assets. This is to be done using the AER's post-tax revenue model as specified in the NER and includes allowance for the normal economic regulatory treatment of matters such as inflation, depreciation, and time value of money.

Part 5 Miscellaneous

Section 40 Transmission and distribution assets for public ownership strategy—Act, s 13

Section 40 excludes the parts of Essential Energy’s distribution system that is subject to the ‘relevant special approval’ from the definition of ‘transmission and distribution assets’ under section 13(3) of the Act. This term is defined to mean special approval no. SA01/11 granted under section 210 of the *Electricity Act 1994*.

Section 41 Appointed council members—Act, s 130

Section 41 prescribes five publicly owned energy businesses and five industrial organisations for the purposes of section 130(1) of the Act.

The five publicly owned energy businesses include: CleanCo Queensland Limited; C S Energy Limited; Energy Queensland Limited; Queensland Electricity Transmission Corporation Limited; and Stanwell Corporation Limited.

The five industrial organisations include: Australian Municipal Administrative Clerical and Services Union Queensland (Services and Northern Administrative) Branch; Automotive Food Metals Engineering Printing & Kindred Industries Union (Queensland and Northern Territory Branch); Communications Electrical Electronic Energy Information Postal Plumbing and Allied Services Union of Australia Electrical Division Queensland & Northern Territory Divisional Branch; Mining and Energy Union Queensland District Branch; and The Association of Professional Engineers, Scientists and Managers Australia.

Together, these entities comprise the membership of the Energy Industry Council. Once prescribed, representatives from these entities are eligible to be appointed to the Council in accordance with section 130 of the Act.

Insertion of new schs 1 and 2

Clause 7 inserts a new Schedule 1 and Schedule 2 after part 5 in this Regulation.

Schedule 1 Application of National Electricity Rules—priority transmission investments

Section 1 Provisions about RIT-T projects

Section 1 provides that when interpreting the term ‘RIT-T Project’ that term does not include a project that is a candidate priority transmission investment, an eligible priority transmission investment or a priority transmission investment.

This modification of the NER ensures that Powerlink is not required to undertake the cost-benefit assessment and consultation process for a RIT-T project under the NER in addition to the cost-benefit assessment and consultation under the PTI framework.

Section 2 Clause 6A.3.2 (Adjustment of maximum allowed revenue)

Section 2 modifies clause 6A.3.2 of the NER so that the MAR for a Transmission Network Service Provider is also subject to adjustment in accordance with section 19(2)(c) and section 39(3)(a) of this Regulation.

Section 3 Clause 6A.6.6 (Forecast operating expenditure)

Section 3 modifies clause 6A.6.6(a) of the NER to include a new operating expenditure objective (1), being to meet or manage the demand for prescribed transmission services involving a priority transmission investment that Powerlink was directed to construct under the Act. The existing operating expenditure objective (1) is renumbered to be (1A).

This modification of the NER is necessary to ensure that the ongoing operating expenditure needs of a PTI can be included in any future Revenue Proposal submitted by Powerlink and be accepted by the AER in any future revenue determination.

To avoid potential double counting of operating expenditure the renumbered operating expenditure objective (1A) is modified to exclude any application to a priority transmission investment.

Section 4 Clause 6A.10.1 (Submission of proposal, pricing methodology and information)

Section 4 modifies clause 6A.10.1(f) of the NER so that where Powerlink submits a Revenue Proposal in accordance with a direction given under the relevant part, Powerlink must include a copy of the direction and a description of the investment.

Section 5 Schedule 6A.2 (Regulatory Asset Base)

Section 5 modifies clause S6A.2.2A(h) of Schedule 6A.2 of the NER so that when considering whether to reduce the amount of capital expenditure to be included in the value of Powerlink's RAB the AER must not have regard to any amount of capital expenditure on a priority transmission investment.

This modification is necessary as the PTI framework empowers the responsible Ministers to determine the amounts of capital expenditure on a priority transmission investment that are to be included in the value of Powerlink's RAB.

Schedule 2 Dictionary

Schedule 2 defines terms used in the Regulation.