



New South Wales

Electricity Supply (Exemption) Order 1998

under the
Electricity Supply Act 1995

Gordon Samuels, Governor.

I, the Honourable Gordon Samuels AC, Governor of the State of New South Wales, on the recommendation of the Treasurer and with the advice of the Executive Council, and in pursuance of sections 43E (6) and 43P (4) of the *Electricity Supply Act 1995*, make the following Order.

Signed at Sydney, this 11 day of November 1998.

By His Excellency's Command,

MICHAEL EGAN, MLC.,
Treasurer.

Explanatory note

Section 43E (6) of the *Electricity Supply Act 1995* enables the Governor, by order made on the recommendation of the Treasurer, to provide that Division 4 (Pricing of electricity) of Part 4 (Electricity supply in the retail market) of that Act does not apply in relation to electricity network services provided to non-franchise customers of a class specified or described in the order.

Section 43P (4) of the *Electricity Supply Act 1995* enables the Governor, by order made on the recommendation of the Treasurer, to provide that Division 2 Pricing of electricity of Part 4A (Electricity supply by transmission

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operators to direct customers) of that Act does not apply in relation to electricity network services provided to persons of a class specified or described in the order.

The purpose of this Order is to exempt persons who are supplied with electricity under certain contracts specified in the Order from the application of Division 4 of Part 4 or Division 2 of Part 4A.

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1 Name of Order

This Order is the *Electricity Supply (Exemption) Order 1998*.

2 Definition

In this Order, ***protected contract*** means any of the following contracts:

- (a) ***protected contract no 1***, being the contract known as the *Capral Aluminium Smelter Contract* comprising agreements dated 30 March 1966 and 21 June 1993 (2 agreements) (and, subject to clause 4, any subsequent variations) between the predecessors in title of Delta Electricity and Capral Aluminium Limited—A.C.N. 004 213 692,
- (b) ***protected contract no 2***, being the contract known as the *BHP Port Kembla Slab and Plate Products Contract* comprising agreements dated 24 May 1955, 27 November 1958 and 1 December 1969 and the *Combined Port Kembla and Newcastle Supplementary Agreement No 1 of 1998* (and, subject to clause 4, any subsequent variations) between the predecessors in title of Delta Electricity and BHP Steel (AIS) Pty Limited—A.C.N. 000 019 625,
- (c) ***protected contract no 3***, being the contract known as the *BHP Newcastle Rod and Bar Products Contract*, comprising an agreement dated 13 August 1959 and the *Combined Port Kembla and Newcastle Supplementary Agreement No 1 of 1998* (and, subject to clause 4, any subsequent variations) between the predecessors in title of Delta Electricity and The Broken Hill Proprietary Company Limited—A.C.N. 004 028 077.
- (d) ***protected contract no 4***, being the contract known as the *Tomago Aluminium Smelter Contract*, comprising agreements dated 23 August 1979, 27 April 1981 and 23 January 1991 (and, subject to clause 4, any subsequent variations) between the predecessors in title of Macquarie Generation and Tomago Aluminium Company Pty Limited—A.C.N. 001 862 228.

3 Electricity network services provided under protected contracts

- (1) Division 4 of Part 4 of the *Electricity Supply Act 1995* does not apply in relation to electricity network services provided to non-franchise customers in connection with the supply of electricity under a protected contract.
- (2) Division 2 of Part 4A of the *Electricity Supply Act 1995* does not apply in relation to electricity network services provided by a transmission operator with respect to the supply of electricity to its direct customers under protected contract no 3 or protected contract no 4.
- (3) An exemption granted under this clause does not extend to electricity network services provided with respect to the supply of electricity to a site under protected contract no 2 or protected contract no 3 if the site was not supplied under a protected contract before 19 June 1998 and was brought within the terms of protected contract no 2 or protected contract no 3 by the *Combined Port Kembla and Newcastle Supplementary Agreement No 1 of 1998*.

4 Effect of variation of protected contract

This Order applies to a variation to a protected contract made after the date of this Order if the Treasurer certifies in writing that the Treasurer is satisfied that the overall effect of the variation does not substantially vary the obligations of the customer under the protected contract.

5 Duration of provision of electricity network services

- (1) This Order applies to electricity network services referred to in clause 3(1) that are provided under a protected contract (other than protected contract no 2) on and from 29 June 1997 until the expiration or termination of the protected contract concerned.
- (2) This Order applies to electricity network services referred to in clause 3 (1) that are provided under protected contract no 2 on and from 19 June 1998 until the expiration or termination of the protected contract concerned.

(3) This Order applies to electricity network services referred to in clause 3 (2) that are provided on and from 28 June 1998 until the expiration or termination of the protected contract concerned.

6 Repeal of order

The order made under section 43E (6) of the *Electricity Supply Act 1995* and published in Gazette No 159 of 24 December 1997 on page 10405 is repealed.