



New South Wales

Electricity Supply (General) Amendment Regulation 2000

under the

Electricity Supply Act 1995

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Supply Act 1995*.

KIM YEADON, M.P.,

Minister for Energy

Explanatory note

The object of this Regulation is to amend the *Electricity Supply (General) Regulation 1996* for the following purposes:

- (a) to make amendments consequential on the commencement of various provisions of the *Electricity Supply Amendment Act 2000*, including the commencement of provisions relating to approved electricity industry ombudsman schemes and appeal rights,
- (b) to make savings and transitional provisions consequential on an order under section 92 of the *Electricity Supply Act 1995*, taking effect on 1 January 2001, and on the enactment of the *Electricity Supply Amendment Act 2000*, including providing for the operation of certain protections and rights during the transitional period before the commencement of that amending Act in relation to persons affected by that order (who are to be treated as small retail customers),
- (c) to make savings and transitional provisions consequential on the commencement of various provisions of the *Electricity Supply Amendment Act 2000*, including the translation of references to terms, providing for the initial operation of provisions relating to regulated retail tariffs and charges and saving current approvals for electricity industry ombudsman schemes.

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Explanatory note

This Regulation is made under the *Electricity Supply Act 1995*, including section 106 (the general regulation-making power), and particularly section 106 (1) (c2), (d), (f) and (i), and clauses 1 and 39 of Schedule 6.

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1 Name of Regulation

This Regulation is the *Electricity Supply (General) Amendment Regulation 2000*.

2 Commencement

This Regulation commences on 1 January 2001.

3 Amendment of Electricity Supply (General) Regulation 1996

The *Electricity Supply (General) Regulation 1996* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

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Schedule 1 Amendments

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(Clause 3)

[1] Clause 3 Definitions

Omit the definition of *approved electricity industry ombudsman scheme*.

[2] Clause 3

Insert in alphabetical order:

negotiated customer contract means a negotiated customer connection contract or a negotiated customer supply contract.

[3] Clause 24 Appeal against decisions regarding accreditation

Omit clause 24 (3). Insert instead:

- (3) The appeal is to be dealt with in accordance with the procedures set out in Part 7.

[4] Clause 32 Definitions

Omit “under section 96 of the Act or” from the definition of *appeal*.

[5] Clause 33 Appeals against decisions of electricity distributors

Omit clause 33 (1). Insert instead:

- (1) An appeal by a person against the decision of an electricity distributor as to the accreditation of the person to provide a contestable service must be made in accordance with this clause.

[6] Clause 34 Appeals against decisions of retail suppliers

Omit the clause.

[7] Clause 35 Review of decision by electricity distributor

Omit clause 35 (1). Insert instead:

- (1) On receiving an appeal, the licence holder must review its decision and make a determination under this clause.

[8] Clause 37 Alternative dispute resolution

Omit clause 37 (2A).

[9] Clause 37 (3)

Omit “or the approved electricity industry ombudsman scheme”.

[10] Part 7A

Omit the Part. Insert instead:

Part 7A Electricity industry ombudsman schemes

39A Reports by electricity industry ombudsman

- (1) The electricity industry ombudsman:
 - (a) must cause copies of all public reports issued by the electricity industry ombudsman to be given to the Minister, and
 - (b) must cause notice to be given to the Minister of changes in the policies and procedures to be adopted in connection with the relevant approved electricity industry ombudsman scheme.
- (2) Without limiting subclause (1), the Minister may from time to time require the electricity industry ombudsman appointed under an approved electricity industry ombudsman scheme to provide the Minister with reports on the operation of the scheme, including:
 - (a) particulars as to the extent to which the scheme is meeting the objectives referred to in section 96B of the Act, and
 - (b) particulars as to the extent to which the scheme has met relevant best practice benchmarks, and
 - (c) particulars as to the extent to which licence holders or specified licence holders and other persons bound by the scheme have complied with their obligations under the scheme.

39B Offence

An electricity marketer (within the meaning of Part 5B of the Act) must not fail to comply with a decision of an electricity industry ombudsman under an approved electricity industry ombudsman scheme as to a dispute between the marketer and a franchise customer or an interim small retail customer (within the meaning of Part 10).

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

[11] Part 10

Insert after Part 9:

Part 10 Savings and transitional provisions

50 Object of Part

The object of this Part is to make savings and transitional provisions as a consequence of the making of an order under section 92 of the Act and the enactment of the amending Act.

51 Definitions

In this Part:

amending Act means the *Electricity Supply Amendment Act 2000*.

amended provision means a provision of the Act or of the *Independent Pricing and Regulatory Tribunal Act 1992* that is amended or inserted by a provision of the amending Act commencing on 1 January 2001.

interim small retail customer means a customer who elects to become a non-franchise customer by virtue of the order made under section 92 of the Act that took effect on 1 January 2001.

market operations rules means the rules approved under section 63C of the Act.

Marketing Code of Conduct means the Marketing Code of Conduct approved under section 63G of the Act.

payments rules means the rules approved under section 43EO of the Act.

transitional period means the period commencing on 1 January 2001 and ending on the date of commencement of Schedule 1 [10] to the amending Act or 1 June 2001, whichever is the earlier.

52 References to distribution network service providers

For the purposes of the application of the amended provisions during the transitional period, a reference to a distribution network service provider in an amended provision is taken to be a reference to an electricity distributor.

53 References to standard retail suppliers

For the purposes of the application of the amended provisions during the transitional period, a reference to a standard retail supplier in an amended provision is taken to be a reference to an electricity distributor.

54 References to small retail customers

- (1) For the purposes of the application of the amended provisions (other than the provisions referred to in subclause (2)) during the transitional period, a reference to a small retail customer in an amended provision is taken to be a reference to a franchise customer.
- (2) For the purposes of the application during the transitional period of sections 96–96D and Part 5B of the Act, the payments rules, the Marketing Code of Conduct and the market operations rules, a reference to a small retail customer in those provisions or rules is taken to be a reference:
 - (a) to a franchise customer, or
 - (b) to an interim small retail customer.

55 Provisions relating to initial and transitional operation of Division 5 of Part 4

- (1) It is a term of any standard form customer supply contract in force between a licence holder and any of its customers immediately before 1 January 2001, or that comes into force between a licence holder and a customer during the transitional

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Schedule 1

Amendments

period, that the licence holder must impose tariffs and charges for or in relation to supplying electricity under the contract in accordance with any relevant determination of the Tribunal under Division 5 of Part 4 of the Act.

- (2) It is a condition of the licence holder's licence that the licence holder must impose the tariffs and charges in accordance with the term referred to in subclause (1).
- (3) It is a condition of a licence holder's licence that the licence holder:
 - (a) must give the Tribunal at least 30 days' notice in writing of any new regulated retail tariff or regulated retail charges before the tariff or charges take effect, and
 - (b) must provide to the Tribunal such information as the Minister determines for the purpose of demonstrating that the new tariffs and charges are in accordance with the relevant determination of the Tribunal under Division 5 of Part 4 of the Act.

56 Existing approved electricity industry ombudsman schemes

- (1) The approved electricity industry ombudsman scheme that was in force immediately before 1 January 2001 is taken to be a scheme approved under section 96B of the Act, as inserted by the amending Act.
- (2) The scheme referred to in subclause (1) may deal with any disputes referred to in section 96B (1) of the Act as so amended.
- (3) This clause ceases to have effect on 1 June 2001.

57 Extension of approved electricity industry ombudsman schemes to new retail suppliers

- (1) A retail supplier who was not a member of the approved electricity industry ombudsman scheme immediately before 1 January 2001 (the *existing scheme*) but who would, apart from this clause, be required to be a member of such a scheme on and from 1 January 2001 is not required to be such a member until 1 March 2001.

- (2) A dispute involving any such retail supplier arising on or after 1 January 2001 and before 1 March 2001, that may be dealt with under an approved electricity industry ombudsman scheme, may, if the retail supplier is not a member of a scheme, be dealt with under the existing scheme as if the retail supplier were a member of that scheme.
- (3) It is a condition of a retail supplier's licence that the retail supplier is bound by, and must comply with, any decision of the electricity industry ombudsman under the existing scheme relating to a dispute referred to in subclause (2).

58 Extension of protections to interim small retail customers during transitional period

- (1) A negotiated customer contract entered into by an interim small retail customer during the transitional period must comply with, or make provision for, the matters contained in the following provisions of this Regulation (the *applied provisions*):
 - (a) clause 27,
 - (b) clauses 1 and 4–30 of Schedule 2,
 - (c) clause 28 (4A) and (4B), insofar as they relate to clauses 34–42 of Schedule 2, and clauses 34–42 of Schedule 2.
- (2) The requirements of subclause (1) are subject to any modifications of the operation of the applied provisions set out in Schedule 3.
- (3) For the purposes of this clause, the applied provisions apply to a negotiated customer contract, with any necessary and appropriate modifications, in the same way as they apply to a standard form customer contract.
- (4) Subject to the terms of any negotiated customer contract entered into by an interim small retail customer for the supply of electricity to the customer's premises during the transitional period with a retail supplier, the interim small retail customer may, at any time during that period, elect instead to be supplied with electricity to those premises by the electricity distributor for that district.
- (5) An interim small retail customer who makes an election under subclause (4) is, during the transition period, entitled to be supplied with electricity by the electricity distributor for the

distribution district on the same terms and conditions as a franchise customer under a standard form customer contract.

- (6) An election under subclause (4) does not affect any liability of the customer arising under Division 4 of Part 4 of the Act.
- (7) It is a condition of a licence holder's licence that the licence holder must ensure that any customer contract entered into by the licence holder with an interim small retail customer complies with this clause.

59 Cooling off period for negotiated customer contracts

- (1) An interim small retail customer who enters a negotiated customer contract during the transitional period may, not later than 10 days after the negotiated customer contract commences, terminate the contract by notice in writing to the electricity distributor or retail supplier with whom the contract is made.
- (2) The electricity distributor or retail supplier is not entitled to the payment of any costs, compensation or any other amount as a consequence of the termination of the contract under this clause other than the tariff payable in respect of any electricity supplied, or any charges payable in respect of any connection services provided, under the contract.

[12] Schedule 3

Insert after Schedule 2:

Schedule 3 Modification of applied provisions

(Clause 58 (2))

1 Clause 4, Schedule 2

Clause 4 of Schedule 2 extends only to an obligation to provide the customer concerned with a copy of the contract.

2 Clause 10, Schedule 2

- (1) Accounts rendered by the licence holder are also to include the NMI, if it has been allocated by the electricity distributor.
- (2) In this clause:

NMI means the National Metering Identifier issued at (or in relation to) a metering installation and registered with NEMMCO in accordance with the National Electricity Code.

3 Clause 13, Schedule 2

The contract is also to provide for the procedures and the frequency of meter reading.

4 Clause 26A, Schedule 2

Clause 26A of Schedule 2 also applies to discontinuation of supply by a retail supplier.

5 Clause 27, Schedule 2

Clause 27 of Schedule 2 applies only to a negotiated customer connection contract.

6 Clause 34, Schedule 2

Clause 34 of Schedule 2 also applies to a connection service provided under a negotiated customer supply contract.

7 Clause 40, Schedule 2

- (1) Clause 40 of Schedule 2 applies to a discontinuation of supply by a retail supplier in the same way as it applies to disconnection by an electricity distributor.
- (2) If disconnection of supply is requested by a retail supplier (other than the relevant electricity distributor), the retail supplier must take the action referred to in clause 40 (2) and the electricity distributor is not required to comply with clause 40 (2) in relation to the disconnection.
- (3) If disconnection of supply is initiated by an electricity distributor, the electricity distributor must take the action referred to in clause 40 (2) and a retail supplier is not required to comply with clause 40 (2) in relation to the disconnection.

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8 Clause 41, Schedule 2

- (1) Clause 41 of Schedule 2 applies to a disconnection arising from a discontinuation of supply by a retail supplier in the same way as it applies to disconnection by an electricity distributor.
- (2) If disconnection of supply is requested by a retail supplier (other than the relevant electricity distributor), the retail supplier must give the notice in clause 41 and the electricity distributor is not required to comply with clause 41 in relation to the disconnection.
- (3) If disconnection of supply is initiated by an electricity distributor, the electricity distributor must give the notice in clause 41 and a retail supplier is not required to comply with clause 41 in relation to the disconnection.

BY AUTHORITY