



New South Wales

# Electricity Supply (General) Amendment (Retail Supply) Regulation 2012

under the

Electricity Supply Act 1995

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

PRU GOWARD, MP  
for Minister for Resources and Energy

## Explanatory note

The object of this Regulation is to amend the *Electricity Supply (General) Regulation 2001*, in line with obligations that will apply in other jurisdictions under the National Energy Retail Law, as follows:

- (a) to impose on retail suppliers of electricity additional obligations in relation to hardship customers, including the waiving of late fees, permitting payment of bills by Centrepay and varying contract conditions to reflect provisions applicable to hardship customers,
- (b) to enable notice of variation of electricity charges to be given in the next bill after the variation rather than before the variation takes effect,
- (c) to remove the automatic right of customers to be offered payment plans, if the customers have breached 2 previous plans or been convicted of an offence relating to the illegal use of energy,
- (d) to require additional information to be included in electricity bills for small retail customers, including information about meter readings and estimates and other matters, and to extend to 13 business days the minimum period for payment after issue of a bill,
- (e) to reduce from 12 months to 9 months after the event the period in which a retail supplier of electricity can recover from a small retail customer amounts for undercharging (including failure to issue a bill),
- (f) to increase from \$25 to \$50 the threshold over which separate notification of an amount of overcharging must be given to a customer by a retail supplier of electricity and to make other amendments relating to overcharging,

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- (g) to enable estimated bills to be based on a customer's reading of a relevant meter as an alternative to the use of historical meter data,
- (h) to provide for a temporary exemption for certain interstate retail suppliers from the provision that renders electricity supply arrangements unenforceable unless entered into by licensed retail suppliers, pending the obtaining of a licence in New South Wales,
- (i) to provide also for an exemption from that provision for existing electricity supply arrangements of Endeavour Energy if those arrangements continue to comply with the applicable legislation as in force immediately before 1 July 2012,
- (j) to remove the requirement specifying the community languages in which information is to be provided by a retail supplier of electricity,
- (k) to change requirements for electricity customer supply contracts and electricity customer connection contracts to reflect requirements under the National Energy Retail Law,
- (l) to make other minor and consequential amendments and provision of a savings and transitional nature.

The Regulation also amends provisions relating to the renewable energy sources scheme to remove the mandatory requirement to make an offer to supply electricity from renewable energy sources.

This Regulation is made under the *Electricity Supply Act 1995*, including sections 20, 21, 38A, 39, 40 and 191 (the general regulation-making power).

## **Electricity Supply (General) Amendment (Retail Supply) Regulation 2012**

under the

Electricity Supply Act 1995

### **1 Name of Regulation**

This Regulation is the *Electricity Supply (General) Amendment (Retail Supply) Regulation 2012*.

### **2 Commencement**

This Regulation commences on 1 July 2012 and is required to be published on the NSW legislation website.

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### **Schedule 1 Amendment of Electricity Supply (General) Regulation 2001**

**[1] Clause 11 Notice procedures where small retail customers change supplier or status**

Omit “(including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group)” from clause 11 (2A).

**[2] Clause 13 Information given to persons who elect standard form contracts**

Omit “(including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group)” from clause 13 (1A).

**[3] Clause 13AA Licence condition relating to customer hardship charters**

Insert “to identify customers experiencing payment difficulties due to hardship and” before “to assist” in clause 13AA (2).

**[4] Clause 13AA (3) (f)**

Omit “(including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group)”.

**[5] Clause 13AA (3) (g)**

Insert after clause 13AA (3) (f):

- (g) processes to review the appropriateness of a hardship customer’s negotiated customer supply contract in accordance with the purpose of the customer hardship charter.

**[6] Clause 13AA (4)**

Insert after clause 13AA (3):

- (4) It is a condition of a licence of a supplier who supplies electricity to small retail customers that the supplier must, in implementing the supplier’s customer hardship charter, do the following:
  - (a) waive any fee for late payment of a bill by a hardship customer,
  - (b) if a payment plan is agreed with a hardship customer, notify the customer of the date by which each instalment is to be paid,

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- (c) if a hardship customer requests (whether or not it is a payment option in the customer's supply contract), permit the customer to make payment by Centrepay,
  - (d) give effect to the general principle that discontinuance of supply or disconnection due to inability to pay electricity bills should be a last resort option,
  - (e) ensure that the conditions of a hardship customer's negotiated customer supply contract are varied as necessary to be consistent with the implementation of the supplier's obligations under this clause.

**[7] Clause 13AB**

Insert after clause 13AA:

**13AB Consistency of negotiated customer supply contract with customer hardship charter and obligations**

- (1) This clause applies if a hardship customer is supplied with electricity under a negotiated customer supply contract.
- (2) Any thing that is required or permitted to be done or omitted to be done by a customer or supplier under the supplier's customer hardship charter is taken to be required or permitted under the negotiated customer supply contract, despite any provision of that contract.
- (3) The negotiated customer supply contract has no effect to the extent of any inconsistency with this clause.

**[8] Clause 13A Licence condition relating to payment plans, disconnection and discontinuation of supply**

Insert "(except as referred to in subclause (2A))" after "difficulty" in clause 13A (1) (a).

**[9] Clause 13A (2A)**

Insert after clause 13A (2):

- (2A) The supplier may, but is not required to, operate a payment plan under this clause for customers who:
  - (a) have had 2 payment plans cancelled due to non-payment in the previous 12 months, or
  - (b) have been convicted of an offence involving illegal use of energy in the previous 2 years.

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### [10] **Clause 22 Variation of charges under a negotiated contract**

Omit clause 22 (1). Insert instead:

- (1) A licence holder must give written notice to a customer of the particulars of a variation in the rates for connection charges provided or electricity supplied under a negotiated customer contract to the customer.
- (1A) The notice must be given as soon as practicable, and in any event no later than the customer's next bill.

### [11] **Clause 22 (2) (a)**

Omit "being a date that is later than the date the notice is served".

### [12] **Clause 24 Contents of bill**

Insert "and the bill issue date" after "paid" in clause 24 (2) (f).

### [13] **Clause 24 (2) (f1)–(f6)**

Insert after clause 24 (2) (f):

- (f1) whether the bill was issued as a result of a meter reading or an estimation,
- (f2) if the bill was issued as a result of a meter reading, the date of the meter reading,
- (f3) if the bill was issued as a result of a meter reading, the values of the meter readings at the start and end of the billing period if:
  - (i) the meter concerned measures and records consumption of energy on an accumulation basis only, or
  - (ii) the meter concerned measures and records consumption of electricity derived from interval metering data (within the meaning of the *National Electricity (NSW) Regulations*) and the required metering data is reasonably available,
- (f4) if the bill was issued as a result of an estimation, the values of the estimates at the start and end of the billing period,
- (f5) the estimated date for the next scheduled meter reading (if applicable),
- (f6) particulars of the average daily consumption or estimated average daily consumption during the billing period,

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**[14] Clause 24 (2) (i1) and (i2)**

Insert after clause 24 (2) (i):

- (i1) if the customer's bill covers a period other than the customer's usual billing cycle or a period during which the charges changed, the proportionate charges for the relevant periods,
- (i2) if the customer has provided a security in the form of a deposit, the amount of the deposit,

**[15] Clause 24 (2) (l) and (ll)**

Omit clause 24 (2) (l). Insert instead:

- (l) contact details, including a telephone number for complaints (which may be the same as that for account enquiries), the charge for which is no more than the cost of a local call,
- (ll) a separate 24 hour telephone number for fault enquiries and emergencies, the charge for which is no more than the cost of a local call, being the telephone number for the service provider,

**[16] Clause 24 (2) (m)**

Omit "(including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group)".

**[17] Clause 26 Correction where customer undercharged**

Insert "or that the supplier has failed to issue a bill for all or part of a billing period" after "the contract" in clause 26 (2).

**[18] Clause 26 (3)**

Omit "12 months" from clause 26 (3). Insert instead "9 months".

**[19] Clause 26 (5)**

Insert "or for which a bill was not issued" after "occurred".

**[20] Clause 27 Correction where customer overcharged**

Omit "\$25" from clause 27 (2). Insert instead "\$50".

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**[21] Clause 27 (2) (b)**

Insert “or (in a case where the person is no longer a customer) use its best endeavours to refund the amount within 10 business days” after “issued to the customer”.

**[22] Clause 27 (3)**

Omit the subclause. Insert instead:

- (3) If the amount overcharged and paid by the customer does not exceed \$50, the supplier must credit the amount to the customer in the next bill issued to the customer.

**[23] Clause 27 (4)**

Insert after clause 27 (3):

- (4) If an amount is overcharged as a result of a customer’s unlawful act or omission, the supplier is only required to reimburse, credit or refund the amount if it was overcharged in the 12 months before the supplier determined that the customer had been overcharged.

**[24] Clause 30 Payment of bills for electricity supply by small retail customers**

Omit “12 business days” from clause 30 (1). Insert instead “13 business days”.

**[25] Clause 36 Estimation of electricity supplied**

Omit clause 36 (5). Insert instead:

- (5) The estimated bill may be based on:
  - (a) the small retail customer’s reading of the relevant meter, or
  - (b) the small retail customer’s historical meter data or, if the supplier does not have that data, the averaged daily consumption for small retail customers supplied by the supplier calculated for the period covered by the bill.

**[26] Clause 45B**

Omit the clause. Insert instead:

**45B Offer of accredited renewable energy sources**

- (1) A supplier who supplies or offers to supply electricity to residential premises:
  - (a) may make an offer to each potential new or moving customer of the supplier to the effect that the equivalent of a minimum of 10 per cent of the electricity supplied to the



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potential customer will be obtained from accredited renewable energy sources (this offer being referred to in this Division as a *renewable energy sources offer*), and

- (b) if such an offer is made, must ensure that each renewable energy sources offer:
  - (i) includes a statement as to whether the contract under which the electricity is to be supplied is a standard form customer supply contract or a negotiated customer supply contract, and
  - (ii) includes a statement of the tariffs and charges on the basis of which electricity from accredited renewable energy sources will be supplied under a renewable energy sources term in the contract if the potential customer accepts the offer, and
- (c) if such an offer is made, must be a member of, and comply with the requirements of, an approved accreditation scheme.

- (2) The Minister may exempt a supplier from the requirements of subclause (1) (c) for any period in respect of which the supplier satisfies the Minister that it is not practicable for the supplier to be a member of an approved accreditation scheme for reasons that are beyond the control of the supplier.

**[27] Clause 45C Ancillary provisions**

Omit “licence condition”. Insert instead “offer”.

**[28] Clause 45E Simultaneous offers to supply electricity under standard and negotiated contracts**

Omit clause 45E (2).

**[29] Clause 59 Commencement of last resort supply arrangements**

Insert after clause 59 (2) (b):

- (c) if a supplier’s exemption under clause 72A is cancelled by the Minister and written notice of the cancellation is given to the supplier.

**[30] Clause 61 Notice to customers**

Omit “(including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group)” from clause 61 (1A).

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### [31] Clauses 72A and 72B

Insert after clause 72:

#### 72A Transitional exemption for interstate suppliers

- (1) An electricity supply arrangement under which a transitional interstate supplier supplies electricity is exempt from the operation of section 179 of the Act if it complies with this clause.
- (2) The supply of electricity under the arrangement must comply with the requirements that would be applicable under the Act and this Regulation to that supply (including any applicable licence conditions) if the transitional interstate supplier were supplying the electricity as a retail supplier of that electricity.
- (3) An exemption under this clause ceases to have effect:
  - (a) if the transitional interstate supplier fails to apply for a retail supplier's licence in accordance with clause 2 of Schedule 2 to the Act on or before 1 October 2012 or such other later day as the Minister may approve in relation to the transitional interstate supplier, or
  - (b) if the transitional interstate supplier is refused a retail supplier's licence, on the day specified as the day on which the exemption ceases to have effect in a written notice given by the Minister to the transitional interstate supplier.
- (4) This clause does not apply to a transitional interstate supplier unless:
  - (a) the transitional interstate supplier gives written notice to the Tribunal of the transitional interstate supplier's intention to rely on the exemption under this clause, and
  - (b) the notice is given not later than 5 July 2012.
- (5) To avoid doubt, a customer supply contract entered into by a transitional interstate supplier in accordance with this clause, and in force when the supplier is granted a licence as a retail supplier under the Act, continues in force until otherwise lawfully terminated.
- (6) In this clause:

***transitional interstate supplier*** means an entity (other than an entity that is a retail supplier under the Act):

  - (a) specified in Column 1 of Schedule 2 to the *National Energy Retail Regulations* made under the National Energy Retail Law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* of South

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Australia, being an entity specified in that Schedule as being authorised to sell electricity or electricity and gas, or

- (b) an entity that is the holder of a retailer's authorisation under the National Energy Retail Law, as in force in another jurisdiction.

**72B Exemption for Endeavour Energy**

An electricity supply arrangement under which Endeavour Energy supplies electricity to any other person is exempt from the operation of section 179 of the Act if:

- (a) the arrangement was in existence immediately before 1 July 2012, and
- (b) the supply of electricity under the arrangement complies with the requirements that were, immediately before 1 July 2012, applicable under the Act and this Regulation to that supply (including any applicable licence conditions).

**[32] Clause 113D**

Insert after clause 113C:

**113D Savings and transitional provisions consequent on Electricity Supply (General) Amendment (Retail Supply) Regulation 2012**

- (1) The amendments made by the *Electricity Supply (General) Amendment (Retail Supply) Regulation 2012* (the **amending Regulation**) do not extend to or in relation to the following:
- (a) any amount payable under a bill issued before the commencement of that Regulation, or to any bill issued before that commencement,
- (b) the recovery of an undercharged amount if the supplier determined before that commencement that the amount had been undercharged,
- (c) the reimbursement of an overcharged amount if the supplier determined before that commencement that the amount had been overcharged,
- (d) the disconnection of premises or discontinuance of the supply of electricity to premises, if the right to take action to disconnect the premises or discontinue supply arose before that commencement,
- (e) a security deposit paid before that commencement.

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- (2) This Regulation, as in force before the commencement of the amending Regulation, continues to apply in respect of a matter referred to in subclause (1) (a)–(e).

**[33] Schedule 1 Requirements applicable to both customer supply and customer connection contracts**

Omit “(including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the licence holder after consultation with any relevant customer consultative group)” from clause 1 (3) (p).

**[34] Schedule 1, clause 4 (2)**

Insert at the end of clause 4:

- (2) If the contract provides for a security, the contract must provide for the payment of the security at the time the customer first requests the sale and supply of electricity or the provision of connection services and not at any later period of the contract.

**[35] Schedule 1, clause 7 (2)**

Insert at the end of clause 7:

- (2) The contract must prohibit the licence holder from disconnecting the customer’s premises, or requesting the customer’s premises be disconnected, from the distribution system on the ground of non-payment of a bill if the amount outstanding is less than \$300 and the customer has agreed with the supplier to pay the amount.

**[36] Schedule 2 Customer supply contracts**

Insert after clause 9:

**9A Termination of standard form customer supply contracts**

- (1) A standard form customer supply contract must provide for termination of the contract in the following circumstances:
- (a) by agreement between the supplier and the customer on a date so agreed,
  - (b) if the customer commences to be supplied electricity at the same premises under a different customer supply contract with the same or a different supplier,
  - (c) if a different customer commences to be supplied electricity at the same premises under a customer supply contract with the same or a different supplier,
  - (d) at the end of the period of 10 business days after the supply of electricity to the premises is discontinued by the

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supplier, if there is no contractual right to have supply continued.

- (2) A standard form customer supply contract must also provide for the termination of the contract on a date advised to the customer by the supplier if:
  - (a) the customer ceases to be classified as a small retail customer, or
  - (b) the customer gives the supplier a notice stating the customer wishes to terminate the contract (even if the customer has earlier vacated the premises).
- (3) The standard form customer supply contract must provide:
  - (a) that the date advised under subclause (2) must be at least 5 but not more than 20 days after the customer ceases to be classified as a small retail customer or the notice is given by the customer, and
  - (b) that, if the customer does not give safe access to the premises for a final meter reading (where relevant), the contract is not terminated until the date the supplier issues a final bill and the customer pays any outstanding balance.
- (4) The standard form customer supply contract must not impose a termination charge (however described) in respect of the termination of the contract.

**9B Termination of negotiated customer supply contracts**

- (1) A negotiated customer supply contract must provide for termination of the contract in the following circumstances:
  - (a) by agreement between the supplier and the customer on a date so agreed,
  - (b) if the customer commences to be supplied electricity at the same premises under a different customer supply contract with the same or a different supplier,
  - (c) if a different customer commences to be supplied electricity at the same premises under a customer supply contract with the same or a different supplier,
  - (d) at the end of the period of 10 business days after the supply of electricity to the premises is discontinued by the supplier, if there is no contractual right to have supply continued,
  - (e) subject to this clause, on another date or event specified in the contract.

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- (2) The negotiated customer supply contract must not require the customer to give more than 20 days notice of termination of the contract.

**[37] Schedule 2, clause 11**

Omit the clause.

**[38] Schedule 2, clause 12**

Insert “and the date of issue of the notice” after “proposed” in clause 12 (3) (a).

**[39] Schedule 2, clause 12 (3) (e) and (f)**

Insert after clause 12 (3) (d):

and

- (e) must specify a telephone number to contact for the purpose of enabling the customer to discuss the matter with a person acting on behalf of the supplier, and
- (f) must specify the arrangements that the customer will need to make for the reconnection of the premises to the distribution system, including any costs payable by the customer in relation to reconnection.

**[40] Schedule 2, clause 13**

Omit the clause.

**[41] Schedule 3 Customer connection contracts**

Insert “before 8.00 am or” before “after 3.00 pm” in clause 14 (c).

**[42] Schedule 3, clause 14 (d)**

Insert at the end of clause 14 (c):

, or

- (d) on the days between 20 December and 31 December (both inclusive) in any year.

**[43] Schedule 3, clause 15**

Insert “and the date of issue of the notice” after “proposed” in clause 15 (3) (a).

**[44] Schedule 3, clause 15 (3) (d) and (e)**

Insert after clause 15 (3) (c):

and

- (d) must specify a telephone number to contact for the purpose of enabling the customer to discuss the matter with a person acting on behalf of the service provider, and
- (e) must specify the arrangements that the customer will need to make for the reconnection of the premises to the distribution system, including any costs payable by the customer in relation to reconnection.

**[45] Schedule 3, clause 16**

Omit the clause.