



# Electricity Supply (General) Amendment (National Energy Retail Law) Regulation 2013

under the

Electricity Supply Act 1995

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

CHRIS HARTCHER, MP  
Minister for Resources and Energy

## Explanatory note

This Regulation amends the *Electricity Supply (General) Regulation 2001* as follows:

- (a) to omit provisions whose subject matter will be dealt with under the National Energy Retail Law (the *National Law*) adopted by the *National Energy Retail Law (Adoption) Act 2012*, including provisions relating to small retail customers, disconnection and discontinuance of electricity supply, electricity bills, customer contracts and reviews,
- (b) to re-make provisions about customer consultative committees for distribution network service providers and to establish distributor service standards,
- (c) to specify persons who may apply to the energy ombudsman for a review, including small customers in relation to disputes with exempt sellers, small customers in relation to disputes about obligations of retailers under State electricity and gas laws and regulated offer customers concerning regulated tariffs for gas or electricity. Disputes between customers and distribution network service providers concerning the solar bonus scheme may also be dealt with by the ombudsman,
- (d) to provide for the adoption of a Social Programs for Energy Code (a *Code*) by the Minister (with the concurrence of the Treasurer). A Code may require particular services to be provided by retailers, distribution network service providers or exempt persons at discount prices or free of charge and may also provide for the payment of Government subsidies that finance such charges to be paid to trust accounts. Any such Code must specify arrangements for the calculation and payment to the retailer, distribution network service provider or exempt person of the estimated efficient cost of complying with the Code,

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- (e) to make a number of consequential amendments and law revision amendments, including to update references to terms to reflect terms used in the National Law and to make other related changes.

This Regulation is made under various provisions of the *Electricity Supply Act 1995*, including section 191 (the general regulation-making power).

## **Electricity Supply (General) Amendment (National Energy Retail Law) Regulation 2013**

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Electricity Supply Act 1995

### **1 Name of Regulation**

This Regulation is the *Electricity Supply (General) Amendment (National Energy Retail Law) Regulation 2013*.

### **2 Commencement**

This Regulation commences on 1 July 2013 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 3 Definitions

Omit the definitions of *customer hardship charter*, *electricity industry ombudsman*, *electricity marketer*, *exempt last resort arrangement*, *guaranteed customer service standard*, *hardship customer*, *last resort supply arrangements*, *licence holder*, *market operations rule*, *National Metering Identifier*, *NECA*, *negotiated customer contract*, *NEMMCO*, *new connection service*, *new occupant supply arrangement*, *retailer of last resort*, *retailer of last resort's endorsement*, *social program for energy*, *standard form customer contract* and *supplier* from clause 3 (1).

### [2] Clause 3 (1), definition of "energy ombudsman"

Insert in alphabetical order:

*energy ombudsman* means the energy ombudsman appointed under an approved energy ombudsman scheme.

### [3] Part 2

Omit Parts 2–5. Insert instead:

## Part 2 Customer consultation and service

### Division 1 Customer consultation

#### 5 Customer consultative groups

- (1) A customer consultative group appointed by a service provider is to be constituted in accordance with a charter approved by the Minister and, if it is so constituted, is not required to comply with section 90 (1) and (2) of the Act.
- (2) Any such charter may also provide for other matters relating to the customer consultative group, including the procedure of the group (including meeting intervals), funding of the group and access to information by the group.

### Division 2 Distributor service standards

#### 6 Distributor service standards

The requirements set out in this Division are distributor service standards.

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**Note.** The requirements of this Division are enforceable under the *National Energy Retail Rules* and are applicable to distributors within the meaning of the *National Energy Retail Law (NSW)*.

## 7 Connection on agreed date

A service provider who fails to provide a customer connection service (other than a connection service under Chapter 5A of the *National Electricity Rules*) on or before the date agreed between the distributor and a small customer or the customer's representative must pay to the customer, as compensation for the delay, not less than \$60 for each day that elapses between the agreed date and the date on which the service is actually provided (up to a maximum total of \$300).

## 8 Time limit for energisation or re-energisation

- (1) This clause applies if a small customer is entitled to be provided with an energisation or re-energisation service by a service provider.
- (2) The service provider must energise or re-energise the small customer's premises:
  - (a) if the energisation or re-energisation request is made before 3.00 pm on a business day, by not later than the end of the next business day, or
  - (b) if the energisation or re-energisation request is made after 3.00 pm on a business day, by not later than the end of the second business day following the day the request is made.
- (3) The service provider and the small customer may agree on a period longer than the period specified in subclause (2) as the period within which the premises are to be energised or re-energised.
- (4) The service provider is not required to energise or re-energise premises within a period specified by this clause if the relevant equipment is not in place to do so.
- (5) In this clause:  
**business day** means a day that is not a Saturday or a Sunday or a day that is wholly or partly a public holiday.

## 9 Mandatory periods for de-energisation

- (1) If a retailer notifies a service provider that a small customer of the retailer wishes to arrange for de-energisation of the customer's premises, the service provider must de-energise the premises

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within 2 days of the notice or within such further period as the customer requests.

- (2) If a retailer notifies a service provider that the retailer wishes to arrange for de-energisation of the small customer's premises on a ground permitted under the *National Energy Retail Rules*, the service provider must de-energise the premises within 2 days (not including any day that is a protected period within the meaning of Part 6 of those rules).

### 10 Disconnection notices

- (1) A service provider must issue a notice to a small customer when the service provider de-energises the customer's premises at the request of a retailer on a ground permitted under the *National Energy Retail Rules*.
- (2) The notice must be in writing and contain the following information:
  - (a) the matter for which premises were de-energised,
  - (b) details of the telephone number of a contact person for the retailer,
  - (c) the arrangements that are required to be made by the small customer for re-energisation of the premises, including any related costs payable by the customer,
  - (d) the dispute resolution procedures available to the small customer, including contact details for the Energy Ombudsman.

### 11 Repair of faulty street lights

- (1) A service provider who fails to repair faulty street lighting on or before the date agreed between a small customer and the service provider as the date by which the repair is to be completed must pay to the customer, as compensation for the loss of illumination, not less than \$15.
- (2) This clause applies to street lighting that is owned by the service provider or that the service provider is under a legally enforceable obligation to maintain, but does not apply to street lighting to which the service provider merely supplies electricity or connection services.
- (3) This clause only applies to or in respect of a small customer if the customer's premises abut the part of the street that (but for the fault) would ordinarily be illuminated by the street lighting.

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**[4] Part 6, heading**

Omit “**Electricity industry**”. Insert instead “**Energy**”.

**[5] Part 6**

Renumber as Part 3.

**[6] Clauses 12 and 13**

Omit clauses 50–52. Insert instead:

**12 Persons who may apply to energy ombudsman**

- (1) For the purposes of section 96A (1) of the Act, the following persons may apply to an energy ombudsman under an approved energy ombudsman scheme for a review of a decision:
  - (a) a small customer in respect of a matter arising between the customer and an exempt person concerning a contract for the supply of electricity or gas (including charges for electricity or gas) or any other matter relating to the supply of electricity or gas by the exempt person to the customer,
  - (b) a small customer in respect of a matter arising between the customer and a retailer or service provider concerning the obligations of the retailer or service provider under the Act or this Regulation,
  - (c) a small customer in respect of a matter arising between the customer and a retailer concerning the obligations of the retailer under the *Gas Supply Act 1996* or regulations under that Act,
  - (d) a regulated offer customer in respect of a matter arising between the regulated offer customer and a retailer concerning regulated offer prices or a regulated pricing arrangement under the Act, the *Gas Supply Act 1996* or the *National Energy Retail Law (NSW)*.
- (2) For the purposes of section 96A (3) of the Act, a review of a decision on an application made by a person referred to in subclause (1) is to be free of charge to the person.
- (3) In this clause:

*exempt person* means:

  - (a) an exempt seller or a person who is exempt (under section 3B of the *National Energy Retail Law (NSW)*) from the requirement to hold a retailer’s authorisation in respect of the sale of electricity or gas, or
  - (b) a person exempted from section 13 of the Act.

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### 13 Solar bonus disputes

An energy ombudsman scheme may deal with a dispute between a customer and a service provider or a retailer arising out of the solar bonus scheme (being the scheme established under section 15A of the Act for credits for electricity supplied to the network by customers using complying generators).

**[7] Clause 53 Reports by energy ombudsman**

Omit “electricity industry” wherever occurring. Insert instead “energy”.

**[8] Clause 53**

Renumber as clause 14.

**[9] Clauses 54 and 55**

Omit the clauses.

**[10] Part 7 Retailers of last resort**

Omit the Part.

**[11] Part 8 Exemptions relating to service providers and supply arrangements**

Renumber as Part 4.

**[12] Clause 67 Exemptions from sec 16**

Omit “licensed suppliers” from clause 67 (1). Insert instead “retailers”.

**[13] Clause 67 (2)**

Omit the subclause. Insert instead:

- (2) The operation of a distribution system by a licensed service provider, for the purpose only of conveying electricity in accordance with an electricity supply arrangement for which an exemption is in force under the *National Energy Retail Law (NSW)* or the *National Energy Retail Law (Adoption) Act 2012*, is exempt from the operation of section 16 of the Act.

**[14] Clause 68 Exemptions from sec 179**

Omit the clause.

**[15] Clause 69 Exemptions for Lord Howe Island Board**

Omit “sections 13, 15A and 34A” from clause 69 (1).

Insert instead “sections 13 and 15A”.



- [16] **Clause 69 (2) and (3)**  
Omit the subclauses.
- [17] **Clause 69A Exemptions for ActewAGL**  
Omit “sections 15A and 34A” from clause 69A (1).  
Insert instead “section 15A”.
- [18] **Clause 70 Conditions applying to exemptions relating to residential premises**  
Omit “or 68 (other than clause 68 (2) (e), (f) or (g))” from clause 70 (1).
- [19] **Clause 70 (1)**  
Omit “, or electricity is supplied,”.
- [20] **Clause 70 (2) (a)**  
Omit “, or supply electricity,”.
- [21] **Clause 70 (2) (b)**  
Omit the paragraph.
- [22] **Clause 70 (2) (c)**  
Omit the paragraph. Insert instead:  
(c) the exempt person is bound by, and must comply with, any decision of the energy ombudsman in relation to a complaint or dispute relating to the provision of connection services.
- [23] **Clause 70 (3) and note**  
Omit the subclause and note.
- [24] **Clause 71 Conditions on exemptions for certain residential premises relating to disconnection from distribution system**  
Omit “or 68 (other than clause 68 (2) (e), (f) or (g))” from clause 71 (1).
- [25] **Clause 71 (1)**  
Omit “, or electricity is supplied,”.
- [26] **Clause 71 (2)**  
Omit “or discontinue the supply of electricity to the occupier of premises”.

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- [27] **Clause 71 (3)**  
Omit “, or electricity is supplied) to disconnect premises from a distribution system or to discontinue the supply of electricity”.  
Insert instead “) to disconnect premises from a distribution system”.
- [28] **Clause 71 (4)**  
Omit “or discontinue supply”.
- [29] **Clause 71 (5) (b) and (6)**  
Omit “or discontinued” wherever occurring.
- [30] **Clause 71 (6)**  
Omit “or resume supply of electricity to premises”.
- [31] **Clauses 72, 72A and 72B**  
Omit the clauses.
- [32] **Clauses 66, 67, 69, 69A, 70, 71 and 73**  
Renumber as clauses 15, 16, 17, 18, 19, 20 and 21, respectively, and renumber any cross-references accordingly.
- [33] **Part 8A Greenhouse gas benchmarks**  
Renumber as Part 5.
- [34] **Clause 73B Electricity generators prescribed as benchmark participants**  
Omit “, under electricity supply arrangements of a class referred to in clause 18 of Schedule 6 to the Act,” from clause 73B (2).
- [35] **Clauses 73BB (2), 73BD (2) (b), 73DB (2) and (3) and 73IE (1)**  
Omit “retail supplier” wherever occurring. Insert instead “retailer”.
- [36] **Clause 73DB Limit on number of renewable energy certificates that may be counted**  
Omit “*National Electricity Code*” wherever occurring in clause 73DB (5).  
Insert instead “*National Electricity Rules*”.
- [37] **Clause 73EA Default assessments**  
Omit “NEMMCO” from clause 73EA (2) (a). Insert instead “AEMO”.

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**[38] Clauses 73A–73EE**

Renumber as clauses 22–41, respectively, and renumber any cross-references accordingly.

**[39] Part 8B Greenhouse gas abatement certificate scheme**

Renumber as Part 6.

**[40] Clause 73G Electricity generation activities**

Omit “retail supplier” wherever occurring in clause 73G (2) and the note to the subclause.

Insert instead “retailer”.

**[41] Clauses 73F–73N**

Renumber as clauses 42–72, respectively, and renumber any cross-references accordingly.

**[42] Part 9 Social programs for energy**

Renumber as Part 7.

**[43] Clauses 73 and 74**

Omit clauses 74 and 75. Insert instead:

**73 Social Programs for Energy Codes**

- (1) The Minister may, with the concurrence of the Treasurer, prepare and adopt a Social Programs for Energy Code for the purpose of facilitating the delivery of any aspect of the Government’s social programs for electricity.
- (2) A Code may require a service provider or retailer, or an exempt seller or other person exempted from the application of the *National Energy Retail Law (NSW)* (*exempt persons*), to take such action as the Minister thinks appropriate for that purpose.
- (3) The Minister may adopt or amend a Code by publishing it in the Gazette. A Code or an amendment takes effect on the day it is so published or on such later day as is specified in the Code.
- (4) Before adopting or amending a Code, the Minister must consult with the service providers, retailers or exempt persons proposed to be made subject to the Code.
- (5) The Minister may revoke a Code by publishing a notice of revocation in the Gazette. A revocation takes effect on the day the notice is published in the Gazette or on such later day as is specified in the notice.

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- (6) Any consultation undertaken by the Minister before the commencement of this clause, in respect of a Code adopted on or after the commencement of this clause, is taken to be consultation for the purposes of subclause (4) in respect of that Code.

### 74 Code requirements and compliance

- (1) A Social Programs for Energy Code:
- (a) may specify that particular services of service providers, retailers or exempt persons are to be provided to particular classes of persons free of charge, at specified charges or subject to specified discounts or rebates, and
  - (b) may require specified classes of customers to be supplied with electricity at discounted charges or to be given rebates on the charges paid by them for the supply of electricity, and
  - (c) may require a retailer or exempt person to establish and maintain facilities to ensure that Government payments that are provided to finance the supply of electricity at discounted charges are applied in accordance with the Code, and
  - (d) may require a retailer or exempt person to establish and maintain trust accounts in which Government payments that are provided to finance the supply of electricity at discounted charges are to be held pending their application in accordance with the Code, and
  - (e) may require a service provider, retailer or exempt person to furnish the Minister with periodic reports as to compliance with the Code, and
  - (f) may require a service provider, retailer or exempt person to establish and maintain accounting procedures to enable such reports to be prepared, and
  - (g) must specify the amount or a methodology by which the amount may be assessed by the Minister as the estimated cost to a service provider or retailer or exempt person of efficiently complying with the Code, and
  - (h) must specify arrangements for the payment to the service provider, retailer or exempt person of an amount equivalent to the estimated efficient costs assessed by the Minister, as referred to in paragraph (g), or, if the service provider or retailer or exempt person disputes that assessment, the costs assessed on a re-assessment under this Part.

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- (2) If a Code adopted under this Part applies to a service provider, it is a condition of the service provider's licence that the service provider must take the action required by the Code in accordance with the Code.
  - (3) A service provider, retailer or exempt person must not fail to comply with a Social Programs for Energy Code that is applicable to the service provider, retailer or exempt person.  
Maximum penalty: 100 penalty units (in the case of a corporation) or 25 penalty units (in any other case).

**[44] Clause 76 Re-assessment of costs of compliance with direction**

Omit clause 76 (1) and (2). Insert instead:

- (1) Any dispute between a service provider, retailer or exempt person and the Minister (being a dispute as to the cost to the service provider, retailer or exempt person of complying with the Social Programs for Energy Code) is to be referred to a committee constituted by one or more assessors.
- (2) The assessor or assessors to constitute such a committee are to be suitably qualified persons appointed by agreement between the service provider, retailer or exempt person and the Minister.

**[45] Clause 76 (3) (b)**

Omit "licence holder".

Insert instead "service provider, retailer or exempt person".

**[46] Clauses 76–78**

Renumber as clauses 75–77, respectively, and renumber any cross-references accordingly.

**[47] Clauses 78 and 79**

Insert after clause 77 (as renumbered by item [46]):

**78 Enforceable undertakings**

- (1) The Minister may accept a written undertaking given by a service provider, retailer or exempt person in connection with compliance with a Social Programs for Energy Code.
- (2) The service provider, retailer or exempt person may, with the consent of the Minister, withdraw or vary the undertaking at any time.
- (3) If the Minister considers that a service provider, retailer or exempt person that gave the undertaking has breached any of its

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terms, the Minister may apply to the Local Court for an order under this clause.

- (4) If the Local Court is satisfied that the service provider, retailer or exempt person has breached a term of the undertaking, the Court may make all or any of the following orders:
- (a) an order directing the service provider, retailer or exempt person to comply with the undertaking,
  - (b) an order directing the service provider, retailer or exempt person to pay to the State an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach,
  - (c) any order that the Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach,
  - (d) any other order that the Court considers appropriate.

### 79 Auditing of Code compliance

- (1) The Minister may at any time conduct or require an audit to be conducted to determine whether a service provider, retailer or exempt person has complied with a Social Programs for Energy Code.
- (2) The Minister may require the audit to be conducted by:
- (a) a person nominated by the Minister, or
  - (b) a person chosen by the service provider, retailer or exempt person from a panel of persons nominated by the Minister, or
  - (c) a person nominated by the service provider, retailer or exempt person and approved by the Minister.
- (3) The reasonable costs of an audit of a service provider, retailer or exempt person under this clause are payable by the service provider, retailer or exempt person.
- (4) A person must not impersonate an auditor who is required to carry out an audit under this clause.

Maximum penalty: 250 penalty units (in the case of a corporation) and 100 penalty units (in any other case).

### [48] Part 9A Energy savings scheme

Renumber as Part 8.

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- [49] Clause 78B Direct suppliers of electricity**  
Omit “to which section 179 of the Act does not apply” from clause 78B (2) (b).
- [50] Clauses 78A–104F**  
Renumber as clauses 80–144, respectively, and renumber any cross-references accordingly.
- [51] Parts 10, 11, 11A and 11B**  
Renumber as Parts 9, 10, 11 and 12, respectively.
- [52] Clause 104G Additional criteria for receiving credit under solar bonus scheme**  
Omit “small retail customer” from clause 104G (a).  
Insert instead “customer”.
- [53] Clause 104H Solar bonus scheme transition day—net feed-in generators**  
Omit “Integral Energy, Country Energy or EnergyAustralia”.  
Insert instead “Endeavour Energy, Essential Energy or Ausgrid”.
- [54] Clause 104H, note**  
Omit the note.
- [55] Clause 104I Form of evidence as to eligibility for higher rate**  
Omit “small retail customer” wherever occurring.  
Insert instead “customer”.
- [56] Clause 104J Reporting and provision of information**  
Omit “small retail customers” from clause 104J (2).  
Insert instead “customers”.
- [57] Clause 104J (6) (d)**  
Omit “small retail customer”.  
Insert instead “regulated offer customer or other customer eligible for a credit under section 15A of the Act”.
- [58] Clause 104L (1) (c), (4) and (5)**  
Omit “small retail customer” wherever occurring.  
Insert instead “customer”.

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- [59] **Clause 104M Saving of rights of solar bonus scheme applicants who applied for connection to distribution network before 29/4/2011 and were connected on or before 30/6/2012**  
Omit “small retail customer” from clause 104M (2).  
Insert instead “regulated offer customer or other customer eligible for a credit under section 15A of the Act”.
- [60] **Clause 104M (3)**  
Omit “small retail”.
- [61] **Clauses 104G–104M**  
Renumber as clauses 145–151, respectively, and renumber any cross-references accordingly.
- [62] **Part 12 Miscellaneous**  
Renumber as Part 13.
- [63] **Clause 105 Definition**  
Omit the definitions of *amending Act* and *interim small retail customer*.
- [64] **Clauses 106–109, 112, 113A, 113B, 113C, 114 and 115**  
Omit the clauses.
- [65] **Clause 110**  
Omit the clause. Insert instead:  
**110 Energy distributors taken to hold licences**  
Each energy distributor (within the meaning of the *Energy Services Corporations Act 1995*) that was in existence at the commencement of the former Regulation, and that was taken to hold, on the commencement of this Regulation, a service provider’s licence authorising it to operate its distribution system so as to convey electricity for or on behalf of retailers, continues to be taken to hold that licence.
- [66] **Clauses 105, 110, 113 and 113D**  
Renumber as clauses 152, 153, 154 and 155, respectively, and renumber any cross-references accordingly.
- [67] **Clause 117 Delegation of Minister’s functions**  
Omit the clause.



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**[68] Clause 118 Market operations rules**

Omit clause 118 (a).

**[69] Clause 118 (b)**

Omit “licence holders”. Insert instead “retailers and service providers”.

**[70] Clause 118 (c)**

Omit “licence holders, that is”.

Insert instead “retailers and service providers, including if”.

**[71] Clause 118A**

Insert after clause 118:

**118A Point of supply and distribution systems**

For the purposes of the definition of *point of supply* in the Dictionary to the Act, the point of supply in relation to premises of wholesale and retail customers is to be determined in the same way as the point of supply within the meaning of the Service and Installation Rules of New South Wales, as in force from time to time, and published by the Department of Trade and Investment, Regional Infrastructure and Services.

**[72] Clause 121 Prescribed electricity works**

Omit “supplier” wherever occurring. Insert instead “retailer”.

**[73] Clause 121A Date on which Divisions 5 and 6 of Part 4 of Act cease to have effect**

Omit “30 June 2013” from clause 121A (1). Insert instead “30 June 2016”.

**[74] Clause 121A (2)**

Omit the subclause.

**[75] Clauses 121B and 122**

Omit the clauses.

**[76] Clauses 116 and 118–121A**

Renumber as clauses 156 and 157–162, respectively, and renumber any cross-references accordingly.

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- [77] **Schedule 1 Requirements applicable to both customer supply and customer connection contracts**  
Omit the Schedule.
- [78] **Schedule 2 Customer supply contracts**  
Omit the Schedule.
- [79] **Schedule 3 Customer connection contracts**  
Omit the Schedule.
- [80] **Schedule 4 Variation of distribution districts**  
Omit “Australian Inland Energy and Water Infrastructure’s” wherever occurring in clause 1.  
Insert instead “Essential Energy’s”.
- [81] **Schedule 4, clause 1 (1) and (2)**  
Omit “deposited in the offices of the Ministry of Energy and Utilities” wherever occurring.  
Insert instead “displayed on the website of the Department”.
- [82] **Schedule 4, clause 1 (3)**  
Omit “, excluding such part of that area as is within the distribution district of Country Energy”.
- [83] **Schedule 4, clause 2, heading**  
Omit “Country Energy”. Insert instead “Essential Energy”.
- [84] **Schedule 4, clause 2**  
Omit “Country Energy’s” wherever occurring.  
Insert instead “Essential Energy’s”.
- [85] **Schedule 4, clause 2 (1) and (2)**  
Omit “deposited in the offices of the Ministry of Energy and Utilities” wherever occurring.  
Insert instead “displayed on the website of the Department”.
- [86] **Schedule 4, clause 3, heading**  
Omit “EnergyAustralia”. Insert instead “Ausgrid”.

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**[87] Schedule 4, clause 3**

Omit “Energy Australia’s”. Insert instead “Ausgrid’s”.