



New South Wales

Electricity Supply (General) Amendment (Green Hydrogen Limitation) Regulation 2023

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*.

MATT KEAN, MP
Minister for Energy

Explanatory note

The object of this Regulation is to provide for a limitation on the recovery by a network service provider of certain charges from the following—

- (a) a person who buys electricity for the purposes of producing green hydrogen,
- (b) a retailer who supplies electricity to a person for the purposes of producing green hydrogen.

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1 Name of Regulation

This Regulation is the *Electricity Supply (General) Amendment (Green Hydrogen Limitation) Regulation 2023*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Electricity Supply (General) Regulation 2014

Part 7B

Insert after Part 7A—

Part 7B Limitation on recovery of charges from green hydrogen producers—the Act, s 192

Division 1 Preliminary

64 Definitions

- (1) In this Part—
approved customer means a customer approved under clause 65C(3).
eligible customer—see clause 65B.
green hydrogen shortfall means the amount of charges that a network service provider is not entitled to recover from an approved customer or retailer because of the operation of this Part.
- (2) Words used in this Part have the same meaning as in the *National Electricity Rules*.

65 Electricity taken to be used to produce green hydrogen

- (1) For the Act, section 192(4), electricity is taken to be used to produce green hydrogen if—
 - (a) the electricity is used in connection with the production of hydrogen, and
 - (b) the electricity was conveyed by a transmission or distribution system to a connection point, and
 - (c) the person who uses the electricity in connection with the production of hydrogen, or a person acting on their behalf, has surrendered renewable energy certificates equivalent to the amount of electricity used in accordance with GreenPower.
- (2) In this clause—
GreenPower means the renewable energy accreditation scheme administered by the Office of Energy and Climate Change on behalf of the National GreenPower Steering Group.
renewable energy certificate has the same meaning as it has in the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

65A Minister may request information from customers and network service providers

- (1) The Minister may, by written notice, require a customer or network service provider to provide relevant information to the Minister within the period specified in the notice.
- (2) A customer or network service provider must comply with a requirement under subclause (1).
- (3) In this clause—

relevant information means information that the Minister reasonably requires to assist in exercising the Minister's functions under this Part, including for the purposes of determining whether a customer is or continues to be an eligible customer.

Division 2 Eligibility and approval of green hydrogen producers

65B Eligibility of green hydrogen producers

- (1) In this Part, a customer is an **eligible customer** if—
 - (a) electrical power used or to be used by the customer only for green hydrogen purposes is or will be delivered—
 - (i) at a connection point used only for those purposes, or
 - (ii) if the network service provider has approved separate metering arrangements for the part of a customer's electrical power used only for green hydrogen purposes—at a metering point used only for those purposes, and
 - (b) the customer's load, measured at either of the points specified in paragraph (a), has or will have an electrical demand of at least 1MW at any time in a 12-month period.
- (2) In this clause—
green hydrogen purposes means the purposes of producing green hydrogen.

65C Approval of eligible customers

- (1) An eligible customer may apply to the Minister to be approved as entitled to the limitation specified in clause 65E.
- (2) The application must include—
 - (a) a statement that the customer proposes to produce green hydrogen before 1 January 2031, and
 - (b) one or more of the following statements—
 - (i) that the customer has been given written confirmation by the relevant network service provider that the connection of the customer's load will not require augmentations or alterations to affected networks, other than augmentations or alterations involving connection assets,
 - (ii) that the relevant network service provider has given information to the customer about augmentations or alterations to affected networks required by the connection of the customer's load, other than augmentations or alterations involving connection assets, and the customer proposes to pay for the augmentations or alterations,
 - (iii) that the relevant network service provider has given information to the customer about power transfer limitations or load control arrangements to manage network constraints and the customer proposes to agree to the limitations or arrangements being in place for 12 years from the day on which clause 65E(1) first applies to the customer, and
 - (c) a copy of the written confirmation or information referred to in paragraph (b) given to the customer by the relevant network service provider,

- (d) information about the customer's expected maximum demand for the load, or part of the load, used only for the purposes of producing green hydrogen.
- (3) The Minister must, by order published in the Gazette, approve a customer as entitled to the limitation specified in clause 65E(3) if satisfied the customer is an eligible customer.
- (4) The order must specify—
 - (a) the location, or proposed location, of the approved customer's connection point, and
 - (b) for electricity to which the limitation applies—the approved customer's expected electrical demand for the load, or part of the load.
- (5) An approved customer must—
 - (a) if the customer entered into a connection agreement or connection contract in relation to the connection point specified in the order after the order was made—within 2 years of the Minister making the order, give the Minister a copy of the connection agreement or connection contract, and
 - (b) if the customer's load used only for the purposes of producing green hydrogen has an electrical demand of at least 100MW—every 6 months after the customer starts to produce green hydrogen, give AEMO information about the customer's load in the form approved by the Minister.
- (6) The Minister must refuse an application if the Minister is satisfied that the combined expected maximum electrical demand of all approved customers and the applicant, if approved, would be greater than 750MW.
- (7) In this clause, a reference to the electrical demand of a customer's load is to the load measured at either of the points specified in clause 65B(1)(a).

65D Revocation of approval

The Minister must revoke an order made under clause 65C in relation to an approved customer if satisfied—

- (a) the approved customer has ceased to be an eligible customer, or
- (b) the approved customer has ceased to produce green hydrogen, or
- (c) that, within 2 years of the Minister making the order, the approved customer is not a party to a connection agreement or connection contract with a network service provider in relation to a connection point specified in that order, or
- (d) the approved customer has not complied with a proposal in the application under clause 65C(2) or the statement in clause 65C(2)(b)(i) is not true, or
- (e) the approved customer has not complied with a requirement under clause 65A or 65C(5).

65E Limitation on recovery of charges from approved customers

- (1) A network service provider may only recover 10% of the specified charges from—
 - (a) an approved customer, or
 - (b) if an approved customer contracts with a retailer for the supply of electricity to the customer to produce green hydrogen—the retailer.

Note— The Act, section 192(3), provides that the regulations may not have the effect of reducing the total revenue earned by the network service provider under a determination.

- (2) A network service provider is required to comply with subclause (1) for 12 years from the day on which the subclause first applies to an approved customer.
- (3) In this clause—
- relevant distribution charges** means—
- (a) charges for standard control services, and
 - (b) designated pricing proposal charges.
- specified charges** means—
- (a) for a transmission network service provider—the transmission charges the provider is entitled to recover under a determination from—
 - (i) for electricity used by a customer to produce green hydrogen—the customer, or
 - (ii) for electricity purchased by a retailer on behalf of a customer for the customer to produce green hydrogen—the retailer, and
 - (b) for a distribution network service provider—the relevant distribution charges the provider is entitled to recover under a determination from—
 - (i) for electricity used by a customer to produce green hydrogen—the customer, or
 - (ii) for electricity purchased by a retailer on behalf of a customer for the customer to produce green hydrogen—the retailer.
- transmission charges** means charges for—
- (a) prescribed transmission use of system services, and
 - (b) prescribed common transmission services.

Division 3 Modification of National Electricity Rules—the Act, s 192(2)

65F Modification relating to green hydrogen shortfall

- (1) This clause modifies the *National Electricity Rules* to give effect to this Part.
- (2) The *National Electricity Rules* do not apply to a network service provider to the extent required to—
- (a) reduce the charges payable by a relevant customer to a network service provider in order to comply with clause 65E, and
 - (b) recover the equivalent of the green hydrogen shortfall from customers who are not relevant customers.
- (3) A transmission network service provider may recover a green hydrogen shortfall from the provider's transmission customers, other than relevant customers, through charges for either or both of the following—
- (a) the adjusted non-locational component for prescribed TUOS services,
 - (b) prescribed common transmission services.
- (4) The transmission network service provider may only recover the green hydrogen shortfall under subclause (2) in accordance with the co-ordinating network service provider's or transmission network service provider's pricing methodology, as the case requires.

- (5) A distribution network service provider may recover a green hydrogen shortfall from the provider's distribution customers, other than relevant customers, through charges for standard control services or designated pricing proposal charges.
- (6) In this clause—
relevant customer means—
 - (a) an approved customer, but only in relation to the amount of electricity used by the approved customer to produce green hydrogen, or
 - (b) a retailer, if an approved customer contracts with the retailer for the supply of electricity to the customer to produce green hydrogen, but only in relation to the amount of electricity used by the approved customer to produce green hydrogen.

65G Modification relating to green hydrogen shortfall

- (1) This clause modifies the *National Electricity Rules* to give effect to clauses 65E and 65F.
- (2) This clause applies to a network service provider if—
 - (a) the provider is required to comply with clause 65E(1) during the provider's regulatory control period, and
 - (b) the provider determines it is necessary to revise the following to give effect to clause 65F—
 - (i) for a transmission network service provider—the pricing methodology approved by the AER for that provider,
 - (ii) for a distribution network service provider—the tariff structure statement approved by the AER for that provider.
- (3) The transmission network service provider may submit a revised pricing methodology to the AER to give effect to clause 65F.
- (4) The distribution network service provider may submit a revised tariff structure statement to the AER to give effect to clause 65F.
- (5) A reference in subclauses (2)(a) and (b)(i) and (3) to a network service provider extends to a co-ordinating network service provider if—
 - (a) the co-ordinating network service provider, or a transmission network service provider that appointed the co-ordinating network service provider (an **appointing provider**), is required to comply with clause 65E(1) during the provider's regulatory control period, and
 - (b) the co-ordinating network service provider determines it is necessary to revise the pricing methodology approved by the AER for that provider to give effect to clause 65F.
- (6) Also, a reference in subclauses (2)(a) and (b)(i) and (3) to a network service provider extends to an appointing provider if—
 - (a) this clause applies to the co-ordinating network service provider for the appointing provider, and
 - (b) the appointing provider determines it is necessary to revise the pricing methodology approved by the AER for that provider to give effect to clause 65F.
- (7) A reference in the *National Electricity Rules* to—
 - (a) a pricing methodology is taken to be a reference to a pricing methodology submitted in accordance with this clause, and

- (b) a tariff structure statement is taken to be a reference to a tariff structure statement submitted in accordance with this clause.

65H Modification relating to offers to connect

The *National Electricity Rules*, rule 5.3.6 is taken to include the following paragraph—

- (b6) If a customer has notified a network service provider that the customer intends to produce green hydrogen, the offer to connect made under paragraph (a) must include—
 - (1) if the network service provider has determined that the connection of the customer's load will not require augmentations or alterations to affected networks, other than augmentations or alterations involving connection assets or augmentations or alterations that the customer will pay for (*excluded augmentations*)—a statement to that effect, or
 - (2) if the network service provider proposes to impose power transfer limitations or load control arrangements to enable the network service provider to manage network constraints—
 - (i) a statement to that effect, including an explanation as to why the power transfer limitations or load control arrangements are necessary, and
 - (ii) a description of the power transfer limitations or load control arrangements, or
 - (3) if neither subparagraph (1) or (2) applies—a statement that, and an explanation as to why, the network service provider—
 - (i) has determined, or was unable to determine whether, the connection of the customer's load will require augmentations or alterations to affected networks, other than excluded augmentations, and
 - (ii) if the load will require augmentations or alterations to affected networks other than excluded augmentations—the provider is unable to impose power transfer limitations or load control arrangements to enable the network service provider to manage network constraints.

65I Modification relating to connection offers

The *National Electricity Rules*, rule 5A.F.4 is taken to include the following paragraph—

- (b1) If a customer has notified a distribution service provider that the customer intends to produce green hydrogen, the negotiated connection offer must include—
 - (1) if the distribution service provider has determined that the connection of the customer's load will not require augmentations or alterations to affected networks, other than augmentations or alterations involving connection assets or augmentations or alterations that the customer will pay for (*excluded augmentations*)—a statement to that effect, or

- (2) if the distribution service provider proposes to impose power transfer limitations or load control arrangements to enable the distribution service provider to manage network constraints—
 - (i) a statement to that effect, including an explanation as to why the power transfer limitations or load control arrangements are necessary, and
 - (ii) a description of the power transfer limitations or load control arrangements, or
- (3) if neither subparagraph (1) or (2) applies—a statement that, and an explanation as to why, the distribution service provider—
 - (i) has determined, or was unable to determine whether, the customer's load will require augmentations or alterations to affected networks, other than excluded augmentations, and
 - (ii) if the load will require augmentations or alterations to affected networks, other than excluded augmentations—the provider is unable to impose power transfer limitations or load control arrangements to enable the distribution service provider to manage network constraints.