

South Australia

# Australian Energy Market Commission Establishment Regulations 2005

under the *Australian Energy Market Commission Establishment Act 2004*

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### 1—Short title

These regulations may be cited as the *Australian Energy Market Commission Establishment Regulations 2005*.

### 3—Interpretation

In these regulations—

*Act* means the *Australian Energy Market Commission Establishment Act 2004*.

### 3A—Definition of small to medium consumer

For the purposes of the definition of *small to medium consumer* under the Act—

- (a) for the purposes of paragraph (a) of that definition—a level of 100 megawatt hours is fixed;
- (b) for the purposes of paragraph (b) of that definition—a level of 1 terajoule is fixed.

### 4—Confidentiality

For the purposes of section 24(3) of the Act, disclosing information to any of the following is authorised use and disclosure of the information:

- (a) the Australian Competition and Consumer Commission established by section 6A of the *Trade Practices Act 1974* of the Commonwealth;
- (b) the Australian Energy Regulator established by section 44AE of the *Trade Practices Act 1974* of the Commonwealth;

- (c) AEMO;
- (d) any staff or consultant assisting a body referred to in a preceding paragraph in performing its functions.

## 5—Annual reports

- (1) A report of the AEMC under section 27 of the Act must include a report on the following in respect of the financial year concerned:
  - (a) the National Energy Law provisions and other legislative provisions that confer functions on the AEMC;
  - (b) the AEMC's relationship to other bodies involved in the administration of National Energy Laws;
  - (c) the membership and organisation of the AEMC;
  - (d) the AEMC's strategic plans and the relationship of the plans to objectives set out in National Energy Laws;
  - (e) the AEMC's activities and their efficiency and effectiveness;
  - (f) the AEMC's financial affairs;
  - (g) disclosures made by Commissioners under section 22 of the Act;
  - (h) positions in the employment of the AEMC, including the salary levels for the positions, any positions created or filled and any positions abolished or vacated;
  - (i) the extent to which external consultants have been engaged by the AEMC, the nature of the work undertaken by the consultants and the total cost to the AEMC of the consultancies;
  - (j) the occupational health, safety and rehabilitation programs of the AEMC and their effectiveness;
  - (k) any instances of fraud in the operations of the AEMC and the strategies implemented to prevent and control fraud;
  - (l) in relation to electricity—
    - (i) the extent to which the operation of the Rules has met the national electricity market objective and the strategic development of the Rules to meet the national electricity market objective;
    - (ii) any statements of policy principles that have been issued by the MCE in relation to the AEMC and any directions that have been given by the MCE to the AEMC;
    - (iii) the Rule making activities of the AEMC under the National Electricity Law, including—
      - (A) requests for Rules in each of the categories of jurisdictional derogations, participant derogations, non-controversial Rules and urgent Rules; and
      - (B) the stages at which proposed Rules are in the Rule making procedure; and

- (C) decisions of the AEMC not to proceed with requests for Rules; and
  - (D) Rules made; and
  - (E) Rules that have come into operation;
  - (iv) MCE directed reviews and AEMC initiated reviews under the National Electricity Law;
  - (v) market development functions;
  - (vi) recommendations made by the AEMC for the MCE to request the making of Rules;
  - (vii) the composition and activities of the Reliability Panel and of any other panels or committees that have been established by the AEMC;
  - (viii) AEMO's use of powers of direction in relation to power system security under clause 4.8.9(a) of the Rules;
  - (ix) the use by Registered Participants of inspection and testing rights under clauses 5.7.1 and 5.7.2 of the Rules;
  - (x) the extent and effectiveness of demand side participation in the national electricity market, including measures that could be undertaken to enhance demand side participation in the national electricity market.
- (2) The AEMC's report must include its audited financial statements for the financial year and the Auditor-General's report on the financial statements.
- (3) In this regulation—  
*National Electricity Rules* or, in relation to electricity, *Rules* means the National Electricity Rules as defined in section 2 of the National Electricity Law.
- (4) Terms used in subregulation (1)(l) that are defined in the National Electricity Law or the National Electricity Rules have the same respective meanings as in the National Electricity Law or the National Electricity Rules.
- (5) A draft report of the Panel under section 47 of the Act must include a report on the following in respect of the financial year concerned:
- (a) a summary of the applications received for grant funding and, in respect of each application, a statement outlining the Panel's response;
  - (b) a summary of each project for which grant funding was allocated during the financial year, including, in respect of each project, the amount of grant funding provided;
  - (c) a statement by the Panel that assesses the extent to which the allocation of grant funding during the financial year has satisfied the Panel's objectives.

## 6—Consultation on Panel's budget

For the purposes of section 41(7) of the Act, the Panel must—

- (a) publish a draft of its proposed budget on its website for at least 4 weeks before it finalises the proposed budget for submission to the MCE; and

- (b) take reasonable steps to bring the draft to the attention of persons who, in the Panel's assessment, are likely to be interested in the grant funding proposed to be available under the budget; and
- (c) invite submissions on its proposed budget, when publishing the draft under paragraph (a) or taking steps under paragraph (b), from interested persons over a period (of at least 4 weeks) specified by the Panel.

## **7—Criteria for grant allocation**

For the purposes of section 45(1) of the Act, the criteria for grant allocation set out in Schedule 1 have been determined by the MCE.

## **Schedule 1—Criteria for grant allocation**

- 2 A project intended to benefit consumers of electricity should—
  - (a) relate to the development, design or operation of, or policies associated with, the national electricity market or the retailing of electricity, or relate to other issues covered by the National Electricity Law, the National Electricity Rules, the National Energy Retail Law or the National Energy Retail Rules; or
  - (b) directly relate to an aspect of the responsibilities of the Australian Energy Regulator, the AEMC or AEMO under the National Electricity Law, the National Electricity Rules, the National Energy Retail Law or the National Energy Retail Rules; or
  - (c) have some other relevance to the national electricity market or the retailing of electricity, when viewed as a whole.
- 3 A project intended to benefit consumers of gas should—
  - (a) relate to the development or operation of gas pipelines, or policies associated with obtaining access to gas pipelines, or the retailing of gas, or relate to other issues covered by the National Gas Law, the National Gas Rules, the National Energy Retail Law or the National Energy Retail Rules; or
  - (b) directly relate to an aspect of the responsibilities—
    - (i) of the Australian Energy Regulator, the AEMC or AEMO under the National Gas Law, the National Gas Rules, the National Energy Retail Law or the National Energy Retail Rules; or
    - (ii) of the Economic Regulation Authority under the National Gas Law or the National Gas Rules as they apply in Western Australia; or
  - (c) have some other relevance to the national gas market or the retailing of gas, when viewed as a whole.
- 4 An application for funding must relate to an issue that is relevant to a material number of consumers.

- 5 There is an expectation (but not a strict requirement) that a successful applicant for funding will fund a share of the costs of the project himself or herself (which may be achieved by the applicant gaining access to other sources of funds, or by the applicant making a contribution to the project by providing staff, facilities or other resources) while recognising that an applicant without the capacity to contribute to the costs of the project should not, by that fact alone, be precluded from being a successful applicant for funding.
- 6 An applicant for funding must furnish a project plan that includes—
- (a) an outline of the objectives of the project; and
  - (b) information identifying whether the project is intended to be for the benefit of consumers of electricity, consumers of natural gas, or both consumers of electricity and consumers of natural gas; and
  - (c) a proposed budget; and
  - (d) the amount of funding sought from the Panel; and
  - (e) an outline of the benefits of the project in terms of making a contribution to consumer advocacy.
- 7 A successful applicant for funding must, as a condition of a grant, be willing to agree—
- (a) to maintain, and to make available to the Panel on request, appropriate records, accounts and reports concerning the expenditure of funding provided by the Panel for the purposes of the relevant project; and
  - (b) to furnish to the Panel—
    - (i) as soon as is reasonably practicable after receiving a written request from the Panel during the course of the relevant project; and
    - (ii) in any event, within 2 months after the completion of the relevant project,  
a report that sets out—
      - (iii) a comprehensive description of the objectives of the project; and
      - (iv) the issues that have been considered for the purposes of the project; and
      - (v) the outcomes that have been achieved in connection with the project; and
      - (vi) the costs and expenses associated with the project.

## Legislative history

### Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2005	151	<i>Gazette 30.6.2005 p2205</i>	1.7.2005: r 2
2008	202	<i>Gazette 26.6.2008 p2743</i>	1.7.2008: r 2
2009	190	<i>Gazette 25.6.2009 p3018</i>	1.7.2009: r 2
<b>2013</b>	<b>291</b>	<b><i>Gazette 19.12.2013 p5006</i></b>	<b>19.12.2013: r 2</b>
2014	286	<i>Gazette 18.12.2014 p6880</i>	30.1.2015: r 2

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2008</i>
r 3A	inserted by 202/2008 r 4 <b>varied by 291/2013 r 4(1), (2)</b>	1.7.2008 <b>19.12.2013</b>
r 4	varied by 190/2009 r 4	1.7.2009
r 5		
r 5(1)	varied by 190/2009 r 5	1.7.2009
r 5(5)	inserted by 202/2008 r 5	1.7.2008
rr 6 and 7	inserted by 202/2008 r 6	1.7.2008
Sch 1	inserted by 202/2008 r 8	1.7.2008
<i>item 1</i>	<i>deleted by 291/2013 r 5(1)</i>	<b><i>19.12.2013</i></b>
item 2	varied by 190/2009 r 6 <b>varied by 291/2013 r 5(2), (3)</b>	1.7.2009 <b>19.12.2013</b>
<b>item 3</b>	<b>varied by 291/2013 r 5(4)</b>	<b>19.12.2013</b>
<b>item 5</b>	<b>varied by 291/2013 r 5(5)</b>	<b>19.12.2013</b>
<b>item 6</b>	<b>varied by 291/2013 r 5(6)</b>	<b>19.12.2013</b>

## Historical versions

1.7.2008

1.7.2009