

South Australia

## **National Electricity (South Australia) Regulations**

under the *National Electricity (South Australia) Act 1996*

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### 1—Short title

These regulations may be cited as the *National Electricity (South Australia) Regulations*.

### 3—Interpretation

In these regulations—

**commencement date of the new National Electricity Law** means the date of commencement of section 12 of the *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005*;

**NECA** means National Electricity Code Administrator Limited ACN 073 942 775;

**new National Electricity Law** means the National Electricity Law as in force on or after the commencement date of the new National Electricity Law;

**old National Electricity Law** means the National Electricity Law as in force before the commencement date of the new National Electricity Law.

### 4—Jurisdictional regulator—Tasmania

For the purposes of paragraph (h) of the definition of **jurisdictional regulator** in section 2 of the new National Electricity Law, in relation to the State of Tasmania as a participating jurisdiction, the Regulator within the meaning of the *Electricity Supply Industry Act 1995* of Tasmania is a jurisdictional regulator of Tasmania.

### 5—Relevant participant

- (1) For the purposes of the definition of **relevant participant** in section 2 of the new National Electricity Law—
  - (a) a Registered participant is not a relevant participant to the extent that the Registered participant is acting in the capacity of a Metering Provider under the Rules; and
  - (b) an applicant within the meaning of clause 2.9.3 of the Rules is a relevant participant to the extent that the person would have been a Registered participant if the person had not been exempted under that clause from the requirement to register as a Generator or Network Service Provider; and
  - (c) a connection applicant who is not a Registered participant is a relevant participant but only for the purposes of clause 8.2 of the Rules.
- (2) Terms used in subregulation (1) that are defined in the Rules have the same respective meanings in that subregulation as in the Rules.

### 6—Civil penalty provisions

- (1) For the purposes of paragraph (c) of the definition of **civil penalty provision** in section 58 of the new National Electricity Law, the provisions of the Rules in Schedule 1 are civil penalty provisions.

- (2) For the purposes of the definition of *rebidding civil penalty provision* in section 58 of the new National Electricity Law, clause 3.8.22A of the Rules is a rebidding civil penalty provision.

### **7—Relevant Parts of Commercial Arbitration Act—Commonwealth and Tasmania**

For the purposes of paragraph (f) of the definition of *relevant Parts of the Commercial Arbitration Act of this jurisdiction* in section 71(3) of the new National Electricity Law—

- (a) in relation to the Commonwealth as a participating jurisdiction—Parts 3, 4 and 5 of the *Commercial Arbitration Act 1986* of the Australian Capital Territory are prescribed as corresponding to Parts III, IV and V of the *Commercial Arbitration Act 1986* of South Australia; and
- (b) in relation to the State of Tasmania as a participating jurisdiction—Parts III, IV and V of the *Commercial Arbitration Act 1986* of Tasmania are prescribed as corresponding to Parts III, IV and V of the *Commercial Arbitration Act 1986* of South Australia.

### **8—Content of requests for Rule**

- (1) For the purposes of section 92(1)(a) of the new National Electricity Law, a request for the making of a Rule must contain the following information:
- (a) the name and address of the person making the request;
  - (b) a description of the Rule that the person proposes be made, including, if the request is for a derogation, a statement as to whether the derogation is a jurisdictional derogation or a participant derogation;
  - (c) a statement of the issue concerning the existing Rules that is to be addressed by the proposed Rule and an explanation of how the proposed Rule would address the issue;
  - (d) an explanation of how the proposed Rule would or would be likely to contribute to the achievement of the national electricity market objective.
- (2) A request under section 92(1) of the new National Electricity Law for the making of a Rule must be in writing.

### **13—System operations functions or powers**

- (1) For the purposes of section 77A of the old National Electricity Law, the following are prescribed as a system operations function or power:
- (a) a function or power of NEMMCO under the Code performed or exercised as an agent engaged by NEMMCO under clause 4.3.3(a)(1) of the Code;
  - (b) a function or power that NEMMCO could have performed or exercised under the Code performed or exercised pursuant to a contractual arrangement with NEMMCO under clause 4.3.3(a)(2) of the Code;
  - (c) the provision of information to NEMMCO in relation to the performance or exercise of a function or power referred to in paragraph (a) or (b);
  - (d) the provision of information to NEMMCO for the purposes of clause 3.13.3(f), (g), (i) or (n), 4.5.1(b) or (c), 4.6.1(a), 4.6.2 or 4.6.5(a) of the Code;

- (e) the provision of information to NEMMCO for the purposes of clause 3.11.2(b) or 4.3.4(d) of the Code or paragraph 5.2(b) of Schedule 9G of the Code in so far as the compiling of the information involves analysis, judgements or calculations;
- (f) the development of procedures for the purposes of clause 4.8.8(c) or 4.10.1(b) of the Code;
- (g) a function under any of the following clauses of the Code:
  - clause 4.3.4(a), (b), (c) or (f)
  - clause 4.6.5(c)
  - clause 4.10.3(a)
  - clause 4.10.5(b)
  - clause 4.11.2(a) or (d);
- (h) the disconnection or reconnection of a facility as contemplated by the power system operating procedures defined in clause 4.10.1(a) of the Code in so far as the disconnection or reconnection is performed by—
  - (i) a Transmission Network Service Provider; or
  - (ii) a Distribution Network Service Provider at the direction of a Transmission Network Service Provider;
- (i) the disconnection of a Code participant's facilities under clause 5.9.3(a)(1), (2) or (3) or 5.9.4(a) of the Code;
- (j) the reconnection of a Code participant's facilities under clause 5.9.6(a) or (b) of the Code;
- (k) action taken as directed by NEMMCO under any of the following clauses of the Code:
  - clause 5.9.3
  - clause 5.9.4
  - clause 5.9.5
  - clause 5.9.6;
- (l) action taken as required by NEMMCO under paragraph S5.1.14 of Schedule 5.1 of the Code;
- (m) the provision and maintenance of communications systems between a communications interface at a power station and the control centre as required under paragraph S5.2.6.3 of Schedule 5.2 of the Code;
- (n) the provision and maintenance of equipment by means of which routine and emergency control telephone calls may be made as required under paragraph S5.2.6.3(a) of Schedule 5.2 of the Code;
- (o) the provision and maintenance of a telephone link or radio installation as required under paragraph S5.2.6.3(b) of Schedule 5.2 of the Code.

- (2) For the purposes of section 119(7) of the new National Electricity Law, the following are prescribed as a system operations function or power:
- (a) a function or power of NEMMCO under the Rules performed or exercised as an agent engaged, or delegate appointed, by NEMMCO under clause 4.3.3(a)(1) of the Rules;
  - (b) a function or power that NEMMCO could have performed or exercised under the Rules performed or exercised pursuant to a contractual arrangement with NEMMCO under clause 4.3.3(a)(2) of the Rules;
  - (c) the provision of information to NEMMCO in relation to the performance or exercise of a function or power referred to in paragraph (a) or (b);
  - (d) the provision of information to NEMMCO for the purposes of clause 3.13.3(f), (g), (i) or (n), 4.5.1(b) or (c), 4.6.1(a), 4.6.2 or 4.6.5(a) of the Rules;
  - (e) the provision of information to NEMMCO for the purposes of clause 3.11.2(b) or 4.3.4(d) of the Rules insofar as the compiling of the information involves analysis, judgements or calculations;
  - (f) the development of procedures for the purposes of clause 4.10.1(b) of the Rules;
  - (g) a function under any of the following clauses of the Rules:
    - (i) clause 4.3.4(a), (b), (c) or (f);
    - (ii) clause 4.6.5(c);
    - (iii) clause 4.10.3(a);
    - (iv) clause 4.10.5(b);
    - (v) clause 4.11.2(a) or (d);
  - (h) the disconnection or reconnection of a facility as contemplated by the power system operating procedures defined in clause 4.10.1(a) of the Rules insofar as the disconnection or reconnection is performed by—
    - (i) a Transmission Network Service Provider; or
    - (ii) a Distribution Network Service Provider at the direction of a Transmission Network Service Provider;
  - (i) the disconnection of a Registered participant's facilities or market loads under clause 5.9.3(a)(1), (2) or (3) of the Rules;
  - (j) the reconnection of a Registered participant's facilities under clause 5.9.6(a) or (b) of the Rules;
  - (k) action taken as directed by NEMMCO under any of the following clauses of the Rules:
    - (i) clause 5.9.3;
    - (ii) clause 5.9.5;
    - (iii) clause 5.9.6;

- (l) the provision and maintenance of communications systems between a communications interface at a power station and the control centre as required under clause S5.2.6.3 of Schedule 5.2 of the Rules;
  - (m) the provision and maintenance of equipment by means of which routine and emergency control telephone calls may be made as required under clause S5.2.6.3(a) of Schedule 5.2 of the Rules;
  - (n) the provision and maintenance of a telephone link or radio installation as required under clause S5.2.6.3(b) of Schedule 5.2 of the Rules.
- (3) Terms used in subregulation (1) that are defined in the Code have the same respective meanings in that subregulation as in the Code.
- (4) Terms used in subregulation (2) that are defined in the Rules have the same respective meanings in that subregulation as in the Rules.

#### **14—Maximum civil monetary liabilities of NEMMCO or network service providers**

- (1) For the purposes of section 77A(4)(c) of the old National Electricity Law and section 119(3) of the new National Electricity Law, maximum amounts are prescribed as follows:
- (a) the maximum amount of NEMMCO's civil monetary liability to each person who suffers loss as a result of a relevant event is, in respect of that event, \$2 million;
  - (b) however, if the amount of NEMMCO's civil monetary liability to the person in respect of that event (as affected, if at all, by paragraph (a)) exceeds the prescribed amount in respect of the relevant event, the maximum amount of NEMMCO's civil monetary liability to that person in respect of that event is that prescribed amount;
  - (c) the maximum amount of each network service provider's civil monetary liability to each person who suffers loss as a result of a relevant event is, in respect of that event, \$2 million;
  - (d) however, if the amount of the network service provider's civil monetary liability to the person in respect of that event (as affected, if at all, by paragraph (c)) exceeds the prescribed amount in respect of the relevant event, the maximum amount of the network service provider's civil monetary liability to that person in respect of that event is that prescribed amount;
  - (e) paragraphs (a), (b), (c) and (d) do not apply in relation to civil monetary liability for death or bodily injury;
  - (f) the maximum amount of the civil monetary liability of each officer or employee of NEMMCO or a network service provider to each person who suffers loss as a result of a relevant event is, in respect of that event, \$1.
- (2) NEMMCO and each network service provider must ensure that the following provisions are complied with in relation to claims against NEMMCO or the network service provider alleging civil monetary liabilities in respect of relevant events:
- (a) the claims must be dealt with in an orderly manner, without bad faith and with reasonable dispatch;

- (b) a register must be maintained containing the following in relation to each claim lodged with it:
    - (i) a unique identifier assigned to the claim and linked to each entry in the register relating to the claim;
    - (ii) the date on which the claim was lodged;
    - (iii) the amount of the claim (if stated by the claimant);
    - (iv) the date or dates on which the relevant event to which the claim relates is alleged to have occurred;
    - (v) the date of payment of the claim;
    - (vi) the amount paid on the claim;
  - (c) separate running totals must be kept in the register of—
    - (i) the amounts of the claims (as stated by the claimants) in relation to relevant events alleged to have occurred during the same prescribed 12 month period; and
    - (ii) the amounts paid on the claims in relation to relevant events alleged to have occurred during the same prescribed 12 month period;
  - (d) the running totals kept in the register must be made available for inspection by the public, during ordinary business hours and at no fee, in each participating jurisdiction in which NEMMCO or the network service provider carries on business;
  - (e) a person appointed by NECA, or, after the commencement date of the new National Electricity Law, by the AER, must be allowed, at any time during ordinary business hours, to conduct inspections of the register and other records of NEMMCO or the network service provider, and to question officers and employees of NEMMCO or the network service provider, for the sole purpose of checking the accuracy of the register.
- (3) In this regulation—
- prescribed amount*** in respect of a relevant event means—
- (a) in relation to NEMMCO—the amount obtained by deducting from \$100 million the aggregate of the amounts already paid by NEMMCO in discharge of NEMMCO's civil monetary liabilities to persons suffering losses as a result of relevant events occurring during the same prescribed 12 month period as that in which the relevant event occurred;
  - (b) in relation to a network service provider—the amount obtained by deducting from \$100 million the aggregate of the amounts already paid by the network service provider in discharge of the network service provider's civil monetary liabilities to persons suffering losses as a result of relevant events occurring during the same prescribed 12 month period as that in which the relevant event occurred;
- prescribed day*** means 13 November 1999;
- prescribed 12 month period*** means—
- (a) the period of 12 months from the prescribed day; or

- (b) the period of 12 months from the end of the period referred to in paragraph (a); or
- (c) the period of 12 months from the end of the period referred to in paragraph (b); or
- (d) the period of 12 months from the end of the period referred to in paragraph (c); or
- (e) the period of 12 months from the end of the period referred to in paragraph (d); or
- (f) the period of 12 months from the end of the period referred to in paragraph (e); or
- (g) the period of 12 months from the end of the period referred to in paragraph (f); or
- (h) the period of 12 months from the end of the period referred to in paragraph (g);

**relevant event** means—

- (a) in relation to NEMMCO—a negligent act or omission, or a series of connected negligent acts or omissions, in the performance or exercise, or purported performance or exercise, of a function or power of NEMMCO under the old National Electricity Law or the Code or the new National Electricity Law or the Rules, done or made during the period of 8 years from the prescribed day;
- (b) in relation to a network service provider—a negligent act or omission, or a series of connected negligent acts or omissions, in the performance or exercise, or purported performance or exercise, of a system operations function or power, done or made during the period of 8 years from the prescribed day;
- (c) in relation to an officer or employee of NEMMCO—a negligent act or omission, or a series of connected negligent acts or omissions, in the performance or exercise, or purported performance or exercise, of a function or power of NEMMCO under the old National Electricity Law or the Code or the new National Electricity Law or the Rules;
- (d) in relation to an officer or employee of a network service provider—a negligent act or omission, or a series of connected negligent acts or omissions, in the performance or exercise, or purported performance or exercise, of a system operations function or power.

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## Schedule 2—Transitional and savings provisions

### Part 1—Interpretation

#### 1—Interpretation

- (1) In this Schedule—

*ACCC* means the Australian Competition and Consumer Commission established by section 6A of the *Trade Practices Act 1974* of the Commonwealth.

- (2) Terms used in this Schedule that are defined in the Code have, when used in this Schedule in reference to matters under the Code, the same respective meanings as in the Code.
- (3) Terms used in this Schedule that are defined in the Rules have, when used in this Schedule in reference to matters under the Rules, the same respective meanings as in the Rules.

## **Part 2—Transitional and savings provisions**

### **2—Continuation of Advocacy Panel**

On the commencement date of the new National Electricity Law—

- (a) the persons appointed under clause 8.10 of the Code, and comprising the Advocacy Panel immediately before the commencement date, are to be taken to be the persons appointed to comprise the Advocacy Panel within the meaning of the Rules; and
- (b) the Advocacy Panel within the meaning of the Rules is to be taken to be the same body as the Advocacy Panel established under clause 8.10 of the Code.

### **3—Continuation of Inter-regional Planning Committee**

On the commencement date of the new National Electricity Law—

- (a) the persons appointed under clause 5.6.3 of the Code, and comprising the Inter-regional Planning Committee immediately before the commencement date, are to be taken to be the persons appointed to comprise the Inter-regional Planning Committee within the meaning of the Rules; and
- (b) the Inter-regional Planning Committee within the meaning of the Rules is to be taken to be the same body as the Inter-regional Planning Committee established under clause 5.6.3 of the Code.

### **4—Continuation of settlement residue committee**

On the commencement date of the new National Electricity Law—

- (a) the persons appointed under clause 3.18.5 of the Code, and comprising the settlement residue committee immediately before the commencement date, are to be taken to be the persons appointed to comprise the settlement residue committee within the meaning of the Rules; and
- (b) the settlement residue committee within the meaning of the Rules is to be taken to be the same body as the settlement residue committee established under clause 3.18.5 of the Code.

### **5—Continuation of Dispute Resolution Adviser, pool of persons for Dispute Resolution Panels, and Dispute Resolution Panels**

- (1) On the commencement date of the new National Electricity Law, the person or persons appointed under clause 8.2.2(a) of the Code to perform the functions of the Adviser (within the meaning of the Code), and in office immediately before the commencement date, are to be taken to be the person or persons appointed to perform the functions of the Adviser within the meaning of the Rules.
- (2) On the commencement date of the new National Electricity Law, the pool of persons established and maintained under clause 8.2.2(e) of the Code by the Adviser (within the meaning of the Code) is to be taken to be the pool of persons established and maintained under the Rules by the Adviser (within the meaning of the Rules) from which the members of a Dispute Resolution Panel (within the meaning of the Rules) may be selected in accordance with the Rules.



- (3) On the commencement date of the new National Electricity Law, any persons who, immediately before the commencement date, comprised a Dispute Resolution Panel established to determine a dispute under clause 8.2.6A(a) of the Code are to be taken to comprise a Dispute Resolution Panel established to determine that dispute under the Rules.

## **6—Metering Providers**

A person who, immediately before the commencement date of the new National Electricity Law, was accredited and registered by NEMMCO under clause 7.4.2 of the Code as a Metering Provider in respect of a particular category of registration is, on the commencement date, to be taken to be accredited and registered by NEMMCO under the Rules as a Metering Provider in respect of that category of registration.

## **7—Registered Participant Agents**

A person who, immediately before the commencement date of the new National Electricity Law, was a Code Participant Agent appointed by a Code Participant (the *Participant*) under clause 4.11.5 of the Code is, on the commencement date, to be taken to be a Registered Participant Agent appointed by the Participant under the Rules.

## **8—Exemptions relating to appointment of intermediaries**

On the commencement date of the new National Electricity Law, an exemption granted by NEMMCO under clause 2.9.3 of the Code and in force immediately before the commencement date is to be taken to be an exemption granted under clause 2.9.3 of the Rules.

## **9—Classifications relating to generating units, loads, connection points and network services**

On the commencement date of the new National Electricity Law—

- (a) a generating unit that, immediately before the commencement date, was classified under the Code as a scheduled generating unit, a non-scheduled generating unit, a market generating unit, a non-market generating unit or an ancillary service generating unit is to be taken to have been classified as such under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code; and

**Note—**

see clause 2.2.1(e)(1), (f) and (f1) of the initial National Electricity Rules

- (b) a load that, immediately before the commencement date, was classified under the Code as a first tier load, a second tier load, a market load, an intending load, an ancillary service load or a scheduled load is to be taken to have been classified as such under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code; and

**Note—**

see clauses 2.3.1(b)(1) and (f) and 2.3.4(d) of the initial National Electricity Rules

- (c) a connection point that, immediately before the commencement date, was classified under the Code as a market connection point or a market load in relation to a particular person is to be taken to have been classified as such in relation to that person under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code; and

**Note—**

see clauses 2.3.1(c), 2.3.3(d) and 2.3.4(h) of the initial National Electricity Rules

- (d) a network service that, immediately before the commencement date, was classified under the Code as a market network service or a scheduled network service is to be taken to have been classified as such under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code.

**Note—**

see clauses 2.5.2(a) and 2.5.3(a) of the initial National Electricity Rules

## **10—Classifications relating to meters**

On the commencement date of the new National Electricity Law, a metering installation that, immediately before the commencement date, was classified under the Code as a revenue metering installation or a check metering installation is to be taken to have been classified as such under the Rules.

## **11—Participant compensation fund**

On and from the commencement date of the new National Electricity Law, the Participant compensation fund established by NEMMCO under clause 3.16 of the Code is to be taken to be the Participant compensation fund required to be maintained by NEMMCO under the Rules.

## **12—Rule funds**

On and from the commencement date of the new National Electricity Law, the Code funds established by NEMMCO under section 67 of the old National Electricity Law and clause 1.11 of the Code are to be taken to be the corresponding Rule funds required to be maintained by NEMMCO under the new National Electricity Law and the Rules.

## **13—Actual and pending Chapter 6 determinations and preliminary action— ACCC**

- (1) On the commencement date of the new National Electricity Law, a determination made by the ACCC in accordance with Chapter 6 of the Code and in effect immediately before the commencement date—
- (a) continues in effect and is to be taken to be a determination made by the AER under the new National Electricity Law and Chapter 6 of the Rules; and
  - (b) may be revoked, amended or varied by the AER in accordance with the new National Electricity Law and the Rules as if it were made under the new National Electricity Law and Chapter 6 of the Rules.

- (2) On the commencement date of the new National Electricity Law, a determination made by the ACCC in accordance with clause 9.8.4C of the Code and in effect immediately before the commencement date—
  - (a) continues in effect and is to be taken to be a determination made by the AER under the new National Electricity Law and clause 9.8.4C of the Rules; and
  - (b) may be revoked, amended or varied by the AER in accordance with the new National Electricity Law and the Rules as if it were made under the new National Electricity Law and clause 9.8.4C of the Rules.
- (3) On the commencement date of the new National Electricity Law, any action taken by the ACCC for the purpose of making a determination in accordance with Chapter 6 of the Code that was not made before the commencement date is to be taken to have been taken by the AER for the purpose of making a determination under the new National Electricity Law and Chapter 6 of the Rules.
- (4) Despite subclauses (1) and (2), the question of whether such a determination should be revoked, amended or varied is to be decided by the AER taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (5) Despite subclause (3), if the ACCC had published a draft determination for the purposes of Chapter 6 of the Code and had not published a final determination in respect of the matter before the commencement date of the new National Electricity Law, then the AER must take any action after the commencement date for the purpose of making the final determination, and make the final determination, as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).
- (6) Despite subclauses (3) and (5), if the ACCC had taken action for the purpose of making a determination under clause 2.5.2(c) of the Code and a consequent revenue cap determination in accordance with Chapter 6 of the Code and had not published a draft or final determination in respect of the matter before the commencement date of the new National Electricity Law, then the AER must take any action after the commencement date for the purpose of making any such determination, and make any such determination, in respect of the matter as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).
- (7) The question of whether a determination made as referred to in subclause (5) or (6) should be revoked, amended or varied is to be decided by the AER taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (8) An appeal against or review of—
  - (a) a determination referred to in subclause (1), (2) or (7); or
  - (b) action referred to in subclause (5) or (6),

is to be decided as if the only matters to be taken into account in deciding the appeal or review were those that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.

- (9) Subclauses (4), (5), (6), (7) and (8) apply subject to any Rules made after the commencement date of the new National Electricity Law.

#### **14—Actual and pending Chapter 6 determinations and preliminary action— jurisdictional regulator**

- (1) On the commencement date of the new National Electricity Law, a determination made by a jurisdictional regulator in accordance with Chapter 6 of the Code and in effect immediately before the commencement date—
- (a) continues in effect and is to be taken to be a determination made by that jurisdictional regulator under the new National Electricity Law and Chapter 6 of the Rules; and
  - (b) may be revoked, amended or varied by that jurisdictional regulator in accordance with the new National Electricity Law and the Rules as if it were made under the new National Electricity Law and Chapter 6 of the Rules.
- (2) On the commencement date of the new National Electricity Law, any action taken by a jurisdictional regulator for the purpose of making a determination in accordance with Chapter 6 of the Code that was not made before the commencement date is to be taken to have been taken by that regulator for the purpose of making a determination under the new National Electricity Law and Chapter 6 of the Rules.
- (3) Despite subclause (1), the question of whether such a determination should be revoked, amended or varied is to be decided by the jurisdictional regulator taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (4) Despite subclause (2), if the jurisdictional regulator had published a draft determination for the purposes of Chapter 6 of the Code and had not published a final determination in respect of the matter before the commencement date of the new National Electricity Law, then the jurisdictional regulator must take any action after the commencement date for the purpose of making the final determination, and make the final determination, as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).
- (5) Despite subclauses (2) and (4), if the jurisdictional regulator had taken action for the purpose of making a determination under clause 2.5.2(c) of the Code and a consequent revenue cap determination in accordance with Chapter 6 of the Code and had not published a draft or final determination in respect of the matter before the commencement date of the new National Electricity Law, then the jurisdictional regulator must take any action after the commencement date for the purpose of making any such determination, and make any such determination, in respect of the matter as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).

- (6) The question of whether a determination made as referred to in subclause (4) or (5) should be revoked, amended or varied is to be decided by the jurisdictional regulator taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (7) An appeal against or review of—
- (a) a determination referred to in subclause (1) or (6); or
  - (b) action referred to in subclause (4) or (5),
- is to be decided as if the only matters to be taken into account in deciding the appeal or review were those that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (8) Subclauses (3), (4), (5), (6) and (7) apply subject to any Rules made after the commencement date of the new National Electricity Law.

### **15—Continuation of disputes**

On and from the commencement date of the new National Electricity Law, any dispute commenced in accordance with the dispute resolution regime set out in clause 8.2 of the Code and not completed before the commencement date must continue to be conducted and completed as if it were a dispute commenced in accordance with the dispute resolution regime under the Rules.

### **16—Continuation of consultation**

On and from the commencement date of the new National Electricity Law, any consultation commenced under provisions of the Code and not completed before the commencement date must continue to be conducted and completed as if it were consultation commenced and conducted under the provisions of the Rules (if any) that correspond to those provisions of the Code.

### **17—Provision of information and documents**

On the commencement date of the new National Electricity Law, any information or document that had been given or provided to the ACCC or NECA under a provision of the Code is to be taken to have been given or provided to the AEMC or the AER under the provision of the Rules (if any) that corresponds to that provision of the Code.

### **18—Continuation of things done under Code**

- (1) On the commencement date of the new National Electricity Law—
- (a) each rule, principle, guideline, test, standard, procedure, report, protocol or other document (however described) that had been issued, published, made, promulgated, approved, accepted or prepared under, or for the purposes of, a provision of the Code and that was in force for the purposes of the Code, or continued to have some effect or contingent effect for the purposes of the Code, immediately before the commencement date is to be taken to have been issued, published, made, promulgated, approved, accepted or prepared under, or for the purposes of, the provision of the Rules (if any) that corresponds to that provision of the Code; and

- (b) a relevant action that had been taken under, or for the purposes of, a provision of the Code by any person or body (including the ACCC, NECA, NEMMCO, a jurisdictional regulator, a Code Participant, the Reliability Panel, the Inter-regional Planning Committee, the settlement residue committee, the Dispute Resolution Adviser or a Dispute Resolution Panel) and that continued to have some effect or contingent effect for the purposes of the Code immediately before the commencement date is to be taken to be a relevant action that has been taken under, or for the purposes of, the provision of the Rules (if any) that corresponds to that provision of the Code; and
  - (c) a right, privilege, obligation or liability that had accrued or been acquired or incurred under a provision of the Code and was in existence immediately before the commencement date is to be taken to be a right, privilege, obligation or liability that has accrued or been acquired or incurred under the provision of the Rules (if any) that corresponds to that provision of the Code.
- (2) Subclause (1)(a) applies in respect of a rule, principle, guideline, test, standard, procedure, report, protocol or other document (however described) issued, published, made, promulgated, approved, accepted or prepared by the ACCC or NECA under, or for the purposes of, a provision of the Code despite the fact that the corresponding provision of the Rules (if any) may refer to that rule, principle, guideline, test, standard, procedure, report, protocol or other document being issued, published, made, promulgated, approved, accepted or prepared by the AER or the AEMC.
- (3) Subclause (1)(b) applies in respect of any relevant action taken by the ACCC or NECA under, or for the purposes of, a provision of the Code despite the fact that the corresponding provision of the Rules (if any) may refer to the relevant action being taken by the AER or the AEMC.
- (4) For the purposes of subclause (1)(b), **relevant action** means the doing of anything, including (without limitation) any of the following:
  - (a) the performance or exercise of any function, power, obligation or right;
  - (b) the making or publishing of any determination, decision, declaration or recommendation;
  - (c) the issuing, publishing, making, preparing, promulgation, approval or acceptance of any rule, principle, guideline, test, standard, procedure, report, protocol or other document;
  - (d) the issuing, giving, publishing, lodging or providing or service or receipt of any statement, invoice, communication, notice or other document;
  - (e) the establishment of any criteria, process or procedure;
  - (f) the giving or receipt of any approval or acceptance;
  - (g) the giving or receipt of any direction or instruction;
  - (h) the making of any requirement;
  - (i) the provision or receipt of any submission, information or data;
  - (j) the making, submission, lodgement or receipt of any bid or offer;
  - (k) the making or receiving of any inquiry, request or application;
  - (l) the making of any calculation;

- (m) the undertaking or completion of any transaction;
  - (n) the undertaking or application of any test, process or procedure;
  - (o) the payment of any monetary amount or fee;
  - (p) the making or receipt of any claim;
  - (q) the making of any agreement;
  - (r) the making or acceptance of any appointment;
  - (s) the establishment or maintenance of any database or register;
  - (t) the undertaking of any investigation, inquiry or review.
- (5) Nothing in subclause (1)(b) or (c) is to be taken as—
- (a) entitling a person or body to exercise—
    - (i) a power or right under the Code to the extent that the power or right has already been exercised under the Rules; or
    - (ii) a power or right under the Rules to the extent that the power or right has already been exercised under the Code; or
  - (b) requiring a person or body to perform—
    - (i) a function or obligation under the Code to the extent that the function or obligation has already been performed under the Rules; or
    - (ii) a function or obligation under the Rules to the extent that the function or obligation has already been performed under the Code.
- (6) This clause does not apply to the extent that it is inconsistent with the new National Electricity Law or another provision of these Regulations.

## 19—Time periods

If a period of time for the doing of anything under a provision of the Code had commenced and had not expired immediately before the commencement date of the new National Electricity Law, then, on and from the commencement date, that period of time is to be taken to continue to run (and the portion of the period that has elapsed is to be taken into account) under, or for the purposes of, the provision of the Rules (if any) that corresponds to that provision of the Code.

## 20—Disclosure of information held by NECA

- (1) Despite anything to the contrary in the Code or at law, NECA may disclose to the AER or the AEMC any information that had been provided to NECA under, or for the purposes of, a provision of the old National Electricity Law or the Code (whether or not such information was provided in confidence to NECA), and the AER or the AEMC (as the case may be) may use that information for any purpose connected with the performance of its functions or the exercise of its powers under the provision of the new National Electricity Law or the Rules (if any) that corresponds to that provision of the old National Electricity Law or the Code.
- (2) A disclosure of information referred to in subclause (1) may be made by providing a document, or a copy of a document, that contains that information.

## Legislative history

### Notes

- 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.

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
1998	211	<i>Gazette 8.12.1998 p1820</i>	13.12.1998: r 2
1999	246	<i>Gazette 2.12.1999 p3076</i>	12.12.1999: r 2
2000	276	<i>Gazette 30.11.2000 p3397</i>	30.11.2000: r 2
2001	248	<i>Gazette 29.11.2001 p5249</i>	29.11.2001: r 2
2002	218	<i>Gazette 28.11.2002 p4357</i>	28.11.2002: r 2
2003	269	<i>Gazette 18.12.2003 p4659</i>	18.12.2003: r 2
2004	23	<i>Gazette 29.4.2004 p1179</i>	29.4.2004: r 2
<b>2005</b>	<b>158</b>	<b><i>Gazette 30.6.2005 p2251</i></b>	<b>1.7.2005: r 2</b>

### 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 the Legislation Revision and Publication Act 2002</i>	<i>29.4.2004</i>
<b>rr 3—8</b>	<b>substituted by 158/2005 r 4</b>	<b>1.7.2005</b>
<i>rr 9—12</i>	<i>deleted by 158/2005 r 4</i>	<i>1.7.2005</i>
<b>r 13</b>		
<b>r 13(1)</b>	<b>varied by 158/2005 r 5(1)</b>	<b>1.7.2005</b>
<b>r 13(2)</b>	<b>substituted by 158/2005 r 5(2)</b>	<b>1.7.2005</b>
<b>r 13(3), (4)</b>	<b>inserted by 158/2005 r 5(2)</b>	<b>1.7.2005</b>
r 14	inserted by 246/1999 r 3	12.12.1999
r 14(1)	varied by 276/2000 r 3(a)—(d) <b>varied by 158/2005 r 6(1)</b>	30.11.2000 <b>1.7.2005</b>
r 14(2)	varied by 276/2000 r 3(e)—(g) <b>varied by 158/2005 r 6(2)</b>	30.11.2000 <b>1.7.2005</b>
r 14(3)		



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prescribed amount	varied by 276/2000 r 3(h)—(j)	30.11.2000
<b>prescribed day</b>	<b>inserted by 158/2005 r 6(3)</b>	<b>1.7.2005</b>
prescribed 12 month period	inserted by 276/2000 r 3(k)	30.11.2000
	varied by 248/2001 r 3(a)	29.11.2001
	varied by 218/2002 r 3(a)	28.11.2002
	<b>varied by 158/2005 r 6(4)</b>	<b>1.7.2005</b>
relevant event	varied by 276/2000 r 3(l), (m)	30.11.2000
	varied by 248/2001 r 3(b), (c)	29.11.2001
	varied by 218/2002 r 3(b), (c)	28.11.2002
	<b>varied by 158/2005 r 6(5)—(7)</b>	<b>1.7.2005</b>
<i>Sch</i>	<i>varied by 276/2000 r 4</i>	<i>30.11.2000</i>
	<i>varied by 269/2003 r 4</i>	<i>18.12.2003</i>
	<i>varied by 23/2004 r 4</i>	<i>29.4.2004</i>
	<i>deleted by 158/2005 r 7</i>	<i>1.7.2005</i>
<b>Schs 1 and 2</b>	<b>inserted by 158/2005 r 7</b>	<b>1.7.2005</b>

## Historical versions

29.4.2004