

SOUTH AUSTRALIA

**PUBLIC CORPORATIONS (ETSA POWER CORPORATION)
REGULATIONS 1995**

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REGULATIONS UNDER THE PUBLIC CORPORATIONS ACT 1993

Public Corporations (ETSA Power Corporation) Regulations 1995

being

No. 135 of 1995: *Gaz.* 29 June 1995, p. 3113¹

¹ Came into operation 1 July 1995: reg. 2.

N.B. The amendments effected to these regulations by Regulation No. 248 of 1999 have not been brought into operation.

Citation

1. These regulations may be cited as the *Public Corporations (ETSA Power Corporation) Regulations 1995*.

Commencement

2. These regulations will come into operation on 1 July 1995.

Interpretation

3. In these regulations, unless the contrary intention appears—

"**Act**" means the *Public Corporations Act 1993*;

"**board**" means the board of directors established as the governing body of the Power Corporation under these regulations;

"**director**" means a person holding office as a member of the board under these regulations;

"**ETSA**" means ETSA Corporation established under the *Electricity Corporations Act 1994*;

"**Power Corporation**" means *ETSA Power Corporation* established under these regulations.

Establishment of ETSA Power Corporation

4. (1) *ETSA Power Corporation* is established as a subsidiary of ETSA.

(2) The Power Corporation—

(a) is a body corporate; and

(b) has perpetual succession and a common seal; and

(c) is capable of suing and being sued in its corporate name.

Establishment of board

5. (1) A board of directors is established as the governing body of the Power Corporation.

(2) Anything done by the board in the administration of the Power Corporation's affairs is binding on the Corporation.

Composition of board

6. (1) The board consists of—

(a) two members appointed by the Minister (one of whom must be appointed to chair meetings of the board and the other a director of ETSA appointed under Part 2 of the *Electricity Corporations Act 1994*); and

(b) the chief executive officer of ETSA; and

(c) the chief executive officer of the Power Corporation.

3.

(2) The Minister may appoint a director to be the deputy of the director appointed to chair meetings of the board and the deputy may perform or exercise the functions and powers of that director in his or her absence.

(3) On the office of an appointed director becoming vacant, a person may be appointed in accordance with this regulation to the vacant office.

Conditions of membership

7. (1) A director will be appointed for a term, not exceeding three years, specified in the instrument of appointment and will, at the expiration of a term of appointment, be eligible for reappointment.

(2) The office of an appointed director becomes vacant if the director—

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by written notice to the Minister; or
- (d) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
- (e) is convicted of an indictable offence; or
- (f) is removed from office by the Minister by written notice on any ground that the Minister considers sufficient.

Vacancies or defects in appointment of directors

8. An act of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a director.

Remuneration

9. An appointed director is entitled to be paid from the funds of the Power Corporation such remuneration, allowances and expenses as may be determined by the Minister.

Proceedings

10. (1) A quorum of the board consists of three members.

(2) The director appointed to chair meetings of the board will preside at meetings of the board at which he or she is present.

(3) If the director appointed to chair meetings of the board is absent from a meeting of the board, the meeting will be presided over—

- (a) if another director has been appointed as that director's deputy and is present at the meeting—by the deputy; or
- (b) in any other case—by a director chosen by the directors present at the meeting.

4.

(4) A decision carried by a majority of the votes cast by directors at a meeting is a decision of the board.

(5) Each director present at a meeting of the board has one vote on a question arising for decision and, if the votes are equal, the director presiding at the meeting may exercise a casting vote.

(6) A telephone or video conference between directors will, for the purposes of this regulation, be taken to be a meeting of the board at which the participating directors are present if—

- (a) notice of the conference is given to all directors in the manner determined by the board for that purpose; and
- (b) each participating director is capable of communicating with every other participating director during the conference.

(7) A proposed resolution of the board becomes a valid decision of the board despite the fact that it is not voted on at a meeting of the board if—

- (a) notice of the proposed resolution is given to all directors in accordance with procedures determined by the board; and
- (b) a majority of the directors express their concurrence in the proposed resolution by letter, telex, facsimile transmission or other written communication setting out the terms of the resolution.

(8) The board must cause accurate minutes to be kept of its proceedings.

(9) Subject to these regulations, the board may determine its own procedures.

Functions of Power Corporation

11. The Power Corporation's functions are limited to the following:

- (a) distributing, supplying and retailing electricity;
- (b) meeting obligations to ensure security of electricity supply to customers;
- (c) generating electricity on a minor scale or local basis;
- (d) trading in electricity and fuels;
- (e) carrying out research and works directed towards energy conservation and actively encouraging, advising and assisting customers and potential customers of the Corporation in energy conservation and in the efficient and effective use of energy;
- (f) carrying out research and development related to the Corporation's functions;
- (g) providing consultancy and other services within areas of the Corporation's expertise;

5.

- (h) commercial development and marketing of products, processes and intellectual property produced or created in the course of the Corporation's operations;
- (i) any other function conferred on the Corporation by ETSA.

Common seal and execution of documents

12. (1) The common seal of the Power Corporation must not be affixed to a document except in pursuance of a decision of the board, and the affixing of the seal must be attested by the signatures of two directors.

(2) The board may, by instrument under the common seal of the Power Corporation, authorise a director, an employee of the Corporation (whether nominated by name or by office or title) or any other person to execute documents on behalf of the Corporation subject to conditions and limitations (if any) specified in the instrument of authority.

(3) Without limiting subregulation (2), an authority may be given so as to authorise two or more persons to execute documents jointly on behalf of the Power Corporation.

(4) A document is duly executed by the Power Corporation if—

- (a) the common seal of the Corporation is affixed to the document in accordance with this regulation; or
- (b) the document is signed on behalf of the Corporation by a person or persons in accordance with authority conferred under this regulation.

Power Corporation's charter

13. (1) ETSA must prepare a charter for the Power Corporation after consultation with the Corporation.

(2) The charter must be consistent with ETSA's own charter but related to the functions of the Power Corporation.

(3) The charter may limit the functions or powers of the Power Corporation.

(4) The Power Corporation's charter must be reviewed by ETSA after consultation with the Corporation in conjunction with the review of ETSA's charter under Part 3 of the *Public Corporations Act 1993*.

(5) ETSA may, after consultation with the Power Corporation, amend the Corporation's charter at any time.

(6) The charter or any amendment to the charter comes into force and is binding on the Power Corporation on a day specified in the charter or amendment (but without affecting any contractual obligations previously incurred by the Corporation).

Performance statements

14. (1) ETSA must, when preparing the charter for the Power Corporation, also prepare, after consultation with the Corporation, a performance statement setting the various performance targets that the Corporation is to pursue in the coming financial year or other period specified in the statement and dealing with such other matters as ETSA considers appropriate.

6.

(2) ETSA must, after consultation with the Power Corporation, review the performance statement when reviewing the Corporation's charter.

(3) ETSA may, after consultation with the Power Corporation, amend the performance statement at any time.