

House of Assembly—No 130

As laid on the table and read a first time, 9 September 2009

South Australia

National Electricity (South Australia) (Smart Meters) Amendment Bill 2009

A BILL FOR

An Act to amend the *National Electricity (South Australia) Act 1996*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *National Electricity (South Australia) (Smart Meters) Amendment Act 2009*.

5 2—Commencement

- (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act or to a provision of this Act.

3—Amendment provisions

In this Act, a provision in Part 2 amends the *National Electricity Law* set out in the Schedule to the *National Electricity (South Australia) Act 1996*.

Part 2—Amendment of *National Electricity Law*

5 Division 1—Smart meter amendments

4—Amendment of section 2—Definitions

- (1) Section 2, definition of *additional Minister initiated Rules*—delete "or section 90B" and substitute:

, section 90B or section 90C

- 10 (2) Section 2—after the definition of *Ministerial Gazette notice* insert:

Ministerial pilot metering determination means a determination made under section 118B;

Ministerial smart metering determination means—

- 15 (a) a Ministerial smart meter rollout determination; or
(b) a Ministerial pilot metering determination;

Ministerial smart meter rollout determination means a determination made under section 118D;

- (3) Section 2—after the definition of *shared transmission service* insert:

20 *smart meter amendments* means the amendments to this Law made by section 5 of the *National Electricity (South Australia) (Smart Meters) Amendment Act 2009* of South Australia;

5—Insertion of Part 8A

After Part 8 insert:

Part 8A—Smart metering services

25 Division 1—Interpretation

118A—Definitions

In this Part—

30 *relevant customer* means a person who consumes electricity through a supply point connected to a distribution system owned, operated or controlled by a regulated distribution system operator to which a Ministerial smart metering determination applies;

required smart metering infrastructure means smart metering infrastructure that is specified under the Rules to be required smart metering infrastructure;

smart meter assessment means an assessment of the costs and benefits, or operational performance, or both, of different smart metering infrastructure and other related technologies, including devices designed to enable direct load control;

5 *smart metering infrastructure* means infrastructure (and associated systems) associated with the installation and operation of remotely read electricity metering and communications, including interval meters designed to transmit data to, and receive data from, a remote locality;

10 *smart metering services* means services provided by means of required smart metering infrastructure that are specified as smart metering services under the Rules;

15 *smart meter trials* means trials of smart metering infrastructure and other related technologies, including devices designed to enable direct load control.

Division 2—Ministerial pilot metering determinations

118B—Ministerial pilot metering determinations

- 20 (1) A Minister of a participating jurisdiction may make a determination that requires a regulated distribution system operator that earns most of its revenue from the provision of electricity network services provided by means of a distribution system situated partly or wholly in that participating jurisdiction to conduct smart meter trials or undertake a smart meter assessment (or both).
- 25 (2) In making a Ministerial pilot metering determination, the Minister must have regard to—
- (a) the national electricity objective; and
 - (b) any comments or submissions made to the Minister as part of the consultation conducted under section 118C.
- 30 (3) A Ministerial pilot metering determination must specify the regulated distribution system operator, or the class of regulated distribution system operator to which the determination applies (the *relevant operator or relevant operators*).
- 35 (4) Without limiting subsection (1), a Ministerial pilot metering determination may—
- (a) specify minimum standards of performance and service that must be met or investigated by the relevant operator or relevant operators in conducting smart meter trials;
 - (b) specify the nature and timing of the smart meter trials;
 - 40 (c) in relation to information derived from a smart meter trial or a smart meter assessment, require the relevant operator or relevant operators to—

- (i) subject to any conditions specified in the determination, provide that information to a person specified in the determination; or
- (ii) make such information publicly available.

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- (5) A requirement of the kind referred to in subsection (4)(c) may require information that relates to a person—
- (a) be provided to another person; or
 - (b) be made publicly available.
- 10
- (6) However, a requirement referred to in subsection (4)(c) must not require the relevant operator to make the information publicly available in a manner that identifies the person to whom the information relates unless the relevant operator has the written consent of the person to do so.
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- (7) Subsection (6) does not apply to information that is in the public domain.

118C—Consultation with interested persons required before making Ministerial pilot metering determination

Before making a Ministerial pilot metering determination, the Minister must consult with a person or body that the Minister considers has an interest in the determination.

Division 3—Ministerial smart meter rollout determinations

118D—Ministerial smart meter rollout determinations

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- (1) A Minister of a participating jurisdiction may make a determination about the provision of smart metering services by a regulated distribution system operator that earns most of its revenue from the provision of electricity network services provided by means of a distribution system situated partly or wholly in that participating jurisdiction.
- 30
- (2) In making a Ministerial smart meter rollout determination, the Minister must have regard to—
- (a) the national electricity objective; and
 - (b) any submissions made to the Minister as part of the consultation conducted under section 118E.
- 35
- (3) A Ministerial smart meter rollout determination must not be inconsistent with the Rules.
- 40
- (4) A Ministerial smart meter rollout determination must—
- (a) specify the regulated distribution system operator, or the class of regulated distribution system operator to which the determination applies (the *relevant operator or relevant operators*); and

- (b) specify any of the following or a combination of any of the following in relation to which the relevant operator or relevant operators must provide smart metering services:
- (i) the minimum number of relevant customers;
 - (ii) the class of relevant customers;
 - (iii) the minimum number of supply points; and
- (c) specify the date on which the determination expires.
- (5) Without limiting subsection (1), a Ministerial smart meter rollout determination may specify—
- (a) the date or dates by which, and the location at which, smart metering services, or different classes of smart metering services, must be provided;
 - (b) the date or dates by which required smart metering infrastructure, or different classes of smart metering infrastructure, become operational.
- (6) A Ministerial smart meter rollout determination has effect according to its tenor despite anything to the contrary in any agreement or contract.

118E—Public consultation required before making Ministerial smart meter rollout metering determination

Before making a Ministerial smart meter rollout metering determination, the Minister must consult with the public about the determination.

Division 4—Provisions applicable to Ministerial smart metering determinations

118F—Compliance with Ministerial smart metering determinations

- (1) A regulated distribution system operator must comply with a Ministerial smart metering determination that applies to the operator.
- (2) A regulated distribution system operator incurs, by complying with a Ministerial pilot metering determination, no liability for breach of contract, breach of confidence or any other civil wrong.

118G—Minister of participating jurisdiction must consult with other participating jurisdiction Ministers

A Minister of a participating jurisdiction must consult with the Ministers of the other participating jurisdictions before making a Ministerial smart metering determination.

118H—Content of Ministerial smart metering determinations

A Ministerial smart metering determination—

- (a) may be of general or limited application;
- (b) may differ according to differences in time, place and circumstances.

118I—Publication and giving of Ministerial smart metering determinations

As soon as practicable after a Ministerial smart metering determination is made the determination—

- (a) must be published in the South Australian Government Gazette; and
- (b) must be given to—
 - (i) every regulated distribution system operator to which it applies; and
 - (ii) the AER; and
 - (iii) the AEMC.

118J—When Ministerial smart metering determinations take effect

A Ministerial smart metering determination has effect on and after the day specified in the determination for the period specified in the determination.

118K—AEMC must publish Ministerial smart metering determination it receives on its website

The AEMC must publish a Ministerial smart metering determination on its website as soon as practicable after receiving it.

Division 2—Other related amendments

6—Insertion of section 90C

After section 90B insert:

90C—South Australian Minister to make initial Rules related to smart meters

- (1) The Minister in right of the Crown of South Australia administering Part 2 of the *National Electricity (South Australia) Act 1996* of South Australia (the *South Australian Minister*) may make Rules for or with respect to either or both of the following subjects:
 - (a) the smart meter amendments;
 - (b) any other subject contemplated by, or consequential on, the smart meter amendments.

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Division 2—Other related amendments

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- (2) Rules may only be made under subsection (1) on the recommendation of the MCE.
- (3) Section 34(3) applies to Rules made under subsection (1) in the same way as it applies to Rules made by the AEMC.
- 10
- (4) As soon as practicable after making Rules under subsection (1), the South Australian Minister must—
- (a) publish in the South Australian Government Gazette notice of the making of the Rules stating the date of commencement of the Rules or, if different Rules commence at different times, the various dates of commencement; and
 - (b) make the Rules publicly available.
- (5) Once the first Rules have been made under subsection (1), no further Rules can be made under that subsection.