

South Australia

## **National Electricity (South Australia) Variation Regulations 2007**

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

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *National Electricity (South Australia) Variation Regulations 2007*.

#### **2—Commencement**

- (1) Subject to subregulation (2), these regulations will come into operation on the day on which the *National Electricity (South Australia) (National Electricity Law—Miscellaneous Amendments) Amendment Act 2007* comes into operation.
  - (2) Regulation 14 comes into operation on the day on which these regulations are made.
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### 3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## Part 2—Variation of *National Electricity (South Australia) Regulations*

### 4—Substitution of regulation 4

Regulation 4—delete the regulation and substitute:

#### 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—

- (a) the Regulator within the meaning of the *Electricity Supply Industry Act 1995* of Tasmania is a jurisdictional regulator of Tasmania; or
- (b) if the functions or powers of that Regulator under the new National Electricity Law are transferred to the AER by or under a law of Tasmania, the AER is a jurisdictional regulator of that jurisdiction.

### 5—Revocation of regulation 5A

Regulation 5A—delete the regulation

### 6—Variation of regulation 6—Civil penalty provisions

Regulation 6(1)—delete "paragraph (c)" and substitute:  
paragraph (i)

### 7—Substitution of regulation 7

Regulation 7—delete the regulation and substitute:

#### 7—Review provisions of relevant Commercial Arbitration Act

For the purposes of paragraph (g) of the definition of *review provisions of the Commercial Arbitration Act of this jurisdiction* in section 71(3) of the new National Electricity Law, in relation to the Commonwealth as a participating jurisdiction, Part 5 of the *Commercial Arbitration Act 1986* of the Australian Capital Territory is prescribed as corresponding to Part 5 of the *Commercial Arbitration and Industrial Referral Agreements Act 1986* of South Australia.

## 8—Variation of regulation 8—Content of requests for Rule

Regulation 8(1)(c) and (d)—delete paragraphs (c) and (d) and substitute:

- (c) a statement of the nature and scope of the issue that is proposed to be addressed and an explanation of how the proposed Rule would address the issue;
- (d) an explanation of how the proposed Rule will or is likely to contribute to the achievement of the national electricity objective;
- (e) an explanation of the expected benefits and costs of the proposed change and the potential impacts of the change on those likely to be affected;
- (f) in the case of a request by an electricity market regulatory body in the circumstances described in section 96A(1)(a) of the new National Electricity Law—a summary of the consultation conducted by the electricity market regulatory body (including information about the extent of the consultation and about the issues raised during the consultation and the electricity market regulatory body's response to those issues).

## 9—Insertion of regulations 9, 10 and 11

After regulation 8 insert:

### 9—Merits review and other non-judicial review

- (1) For the purposes of the definition of *reviewable regulatory decision* in section 71A of the new National Electricity law, a determination of the AER under any of the following clauses of the Rules is prescribed to be a reviewable regulatory decision:
  - (a) clause 6.6.1(d);
  - (b) clause 6.6.1(g);
  - (c) clause 6A.7.3(d);
  - (d) clause 6A.7.3(g).
- (2) For the purposes of the definition of *small to medium user or end user* in section 71A of the new National Electricity Law, a level of 4000 megawatt hours is fixed.

### 10—Service of summons to appear as a witness

- (1) For the purposes of section 143 of the new National Electricity Law, a summons issued by the AER must include—
  - (a) the name and address of the person on whom the summons is to be served; and
  - (b) if the summons is for the production of a document—
    - (i) a proper description of the document; and

- (ii) if the document is to be produced by a person that is a corporation, the name and title of the appropriate officer of the corporation who is to attend and produce the document; and
  - (c) the date, time and place of the hearing of the AER at which the person is required to attend and (if required) to produce the document.
- (2) The summons will remain in force for a period specified in the summons or, if no period is specified, until the conclusion of the proceeding in relation to which the summons has been issued.
- (3) The summons will be taken to be effectively served if—
  - (a) a copy of the summons is handed to the person to be served or, where service by that method is refused or obstructed or made impracticable, a copy of the summons is placed as near as practicable to the person and the person is informed of the nature of the summons; or
  - (b) a copy of the summons is delivered to a legal practitioner acting for the person to be served and the legal practitioner endorses a statement on the summons to the effect that the legal practitioner accepts service; or
  - (c) where the person to be served is a corporation, a copy of the summons is served on the corporation in accordance with the provisions of the *Corporations Act 2001* of the Commonwealth; or
  - (d) a copy of the summons is served in accordance with an agreement made between the parties as to the place and method of service and the person on whom service may be effected; or
  - (e) an answer to the summons is filed with the AER; or
  - (f) the AER is satisfied that the person to be served has received a copy of the summons.

### **11—AER to be able to charge for costs of access disputes**

Pursuant to section 156 of the new National Electricity Law, the AER may—

- (a) charge the parties to an access dispute for its costs in the access dispute; and
- (b) apportion those costs between the parties.

### **10—Variation of regulation 13—System operations functions or powers**

- (1) Regulation 13(2)(d)—delete "(n)" and substitute:
  - (o)
- (2) Regulation 13(2)(l)—delete "clause S5.2.6.3" and substitute:  
clause S 5.2.6.2

(3) Regulation 13(2)(m)—delete "clause S5.2.6.3(a)" and substitute:  
clause S 5.2.6.2

(4) Regulation 13(2)(n)—delete "clause S5.2.6.3(b)" and substitute:  
clause S 5.2.6.2

## **11—Insertion of regulation 15**

After regulation 14 insert:

### **15—Fees**

The fees set out in Schedule 1A are prescribed.

## **12—Variation of Schedule 1—Civil penalty provisions**

(1) Schedule 1—delete "clause 3.11.4(j)" and substitute:  
clause 3.11.3(j)

(2) Schedule 1—delete "clause 3.11.5(i)" and substitute:  
clause 3.11.5(o)

(3) Schedule 1—delete "clause 3.13.3(p)" and substitute:  
clause 3.13.3(t)

(4) Schedule 1—delete "clause 3.15.11A(b)(2)" and substitute:  
clause 3.15.10A(b)(2)

(5) Schedule 1—delete "clause 4.8.12(a)" and substitute:  
clause 4.8.12(d)

(6) Schedule 1—delete "clause 4.8.13(a)(1) - (4)"

(7) Schedule 1—delete "clause 4.8.13(b)"

(8) Schedule 1—after "clause 4.8.14(d) - (e)" insert:  
clause 4.8.15(g)

(9) Schedule 1—delete "clause 4.9.2(c)" and substitute:  
clause 4.9.2(d)

(10) Schedule 1—delete "clause 4.9.3B(b)"

(11) Schedule 1—delete "clause 5.3.2(a1)"

(12) Schedule 1—after "clause 5.3.2(b)" insert:  
clause 5.3.2(c)

(13) Schedule 1—after "clause 5.3.2(d)" insert:  
clause 5.3.2(f)

(14) Schedule 1—delete "clause 5.3.4A(b)" and substitute:  
clause 5.3.4A(c)

- (15) Schedule 1—delete "clause 5.3.4A(d) - (e)" and substitute:  
clause 5.3.4A(e), (f) and (g)
- (16) Schedule 1—delete "clause 5.3.5(g) - (h)" and substitute:  
clause 5.3.5(g)
- (17) Schedule 1—after "clause 5.3.6(b) - (c1)" insert:  
clause 5.3.6(g)
- (18) Schedule 1—after "clause 5.3.6(h)" insert:  
clause 5.3.6(i)
- (19) Schedule 1—delete "clause 5.3.7(e)" and substitute:  
clause 5.3.7(g)
- (20) Schedule 1—delete "clause 5.3.8(c)" and substitute:  
clause 5.3.8(e)
- (21) Schedule 1—delete "clause 5.3.8(d)" and substitute:  
clause 5.3.8(f)  
clause 5.3.9(h)  
clause 5.3.10(a)
- (22) Schedule 1—delete "clause 5.5A(j)"
- (23) Schedule 1—after "clause 5.6.2(m) - (n)" insert:  
clause 5.6.4(l)
- (24) Schedule 1—delete "clause 5.7.6(d)" and substitute:  
clause 5.7.6(e)
- (25) Schedule 1—delete "clause 7.2.2(a)" and substitute:  
clause 7.2.3(c)  
clause 7.2.3(e)
- (26) Schedule 1—delete "clause 7.2.2(b)(2)" and substitute:  
clause 7.2.3(h)(2)
- (27) Schedule 1—delete "clause 7.2.3(a)(1) - (2)"
- (28) Schedule 1—delete "clause 7.2.3(a)(3)"
- (29) Schedule 1—delete "clause 7.2.5(a) - (bc)" and substitute:  
clause 7.2.5(a) - (b)
- (30) Schedule 1—delete "clause 7.3.1(a)(1) - (12)" and substitute:  
clause 7.3.1(a)(1) - (13)
- (31) Schedule 1—delete "clause 7.3.1(da) - (db)" and substitute:  
clause 7.3.1(e) - (f)

(32) Schedule 1—delete "clause 7.11(a) - (c)" and substitute:

clause 7.11.1(a) - (d)

clause 7.11.2(a)

clause 7.11.2(c) - (d)

### **13—Insertion of Schedule 1A**

After Schedule 1 insert:

#### **Schedule 1A—Fees**

Notification of an access dispute—section 125(2) of the new National Electricity Law	\$2 750
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### **14—Variation of Schedule 2—Transitional and savings provisions**

Schedule 2—after clause 20 insert:

#### **21—Transfer of National Electricity Tribunal funds to AEMC**

- (1) This clause is made for the purposes of winding up the affairs of the National Electricity Tribunal in preparation for the commencement of section 7 of the *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005*.
- (2) The Registrar and Deputy Registrar of the National Electricity Tribunal may take steps to facilitate winding up the affairs of the Tribunal, including—
  - (a) preparing financial statements of the accounts of the Tribunal; and
  - (b) preparing a winding up report; and
  - (c) causing or facilitating (after payment of the expenses of the winding up) the transfer to the AEMC of any ADI account in the name of the Tribunal or of the money in such an account and any rights to interest on that money.
- (3) If there is any money remaining in an ADI account in the name of the National Electricity Tribunal on the commencement of section 7 of the *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005*, it will then vest in the AEMC.

#### **Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

on the unanimous recommendation of the Ministers of the participating jurisdictions and with the advice and consent of the Executive Council

on 6 December 2007

No 297 of 2007