

South Australia

Electricity (General) Variation Regulations 2013

under the *Electricity Act 1996*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Electricity (General) Variation Regulations 2013*.

2—Commencement

These regulations will come into operation on 1 February 2013.

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 *Electricity (General) Regulations 2012*

4—Variation of regulation 12—Functions and powers of Commission

- (1) Regulation 12—after paragraph (b) insert:
 - (c) on or before 31 August in each year, to submit to the Minister and publish on its website a report prepared for the purposes of monitoring prices for the sale of electricity available to a small customer under the *National Energy Retail Law (South Australia)* during the immediately preceding financial year containing the information required by the Minister under subregulation (2).
- (2) Regulation 12—after its present contents as varied by this regulation (now to be designated as subregulation (1)) insert:
 - (2) The Minister may require the following information for the year to which the report relates to be included in a report prepared under subregulation (1)(c):
 - (a) comparisons of standing offer prices of NERL retailers generally available to classes of small customers in South Australia;
 - (b) estimates relating to the annual cost to a small customer of electricity supplied to the customer (based on a reasonable estimate of the average annual level of consumption of electricity by a small customer in South Australia) under each standard retail contract of NERL retailers generally available to classes of small customers in South Australia;
 - (c) details relating to the difference in annual cost to a small customer of electricity supplied to the customer (based on a reasonable estimate of the average annual level of consumption of electricity by a small customer in South Australia) under market offer prices of NERL retailers generally available to classes of small customers in South Australia compared to the cost to that customer under standing offer prices of NERL retailers generally available to classes of small customers in South Australia;
 - (d) such other information as the Minister requires in writing to be included.

- (3) The Minister may require the information referred to in subregulation (2) to be presented in such manner and form as the Minister considers appropriate, including in the form of variations or trends over time.
- (4) In this regulation—
market offer prices, standard retail contract and *standing offer prices* have the same respective meanings as in the *National Energy Retail Law*.

5—Variation of regulation 13—Functions of Technical Regulator—major interruptions to electricity supply

Regulation 13(3)—delete "electricity entities" wherever occurring and substitute in each case:

regulated entities

6—Variation of regulation 15—Exemptions from requirement to be licensed

- (1) Regulation 15(3) and (4)—delete subregulations (3) and (4) and substitute:
 - (3) A person who carries on operations as an inset network operator or inset network retailer is exempt from the requirement to hold a licence under the Act authorising the operations on the condition that an inset customer must have an effective right of access to a licensed retailer of the customer's choice.
- (2) Regulation 15(8), definition of *transitional inset customer*—delete the definition

7—Substitution of regulation 20

Regulation 20—delete the regulation and substitute:

20—Prescribed information in small customer accounts for purposes of section 24(2)(da) of Act

For the purposes of section 24(2)(da) of the Act, the following provisions apply:

- (a) the electricity entity must include in each account for electricity charges sent to a small customer for electricity supply through a particular metered connection point the following information:
 - (i) the customer's average daily consumption level, expressed in kW.h, of electricity supplied through the connection point for the period to which the account relates;
 - (ii) the customer's average daily consumption level, expressed in kW.h, of electricity supplied through the connection point for each period during the preceding 12 months in respect of which the customer was sent by the entity an account for electricity supply through the connection point;

- (iii) the average daily cost to the customer of electricity supplied to the customer through the connection point during the period to which the account relates;
- (b) the electricity entity must also include in each account for electricity charges sent to a small customer the following statement:

For more information about energy efficiency, visit www.escosa.sa.gov.au or call [telephone number as specified by the Commission by written notice to the entity].

8—Variation of regulation 22—Application

- (1) Regulation 22(1)—delete "an electricity entity that holds a licence authorising the retailing of electricity within the State" and substitute:
 - a regulated entity authorised to sell electricity by retail (whether or not the entity is required to hold a licence under the Act)
- (2) Regulation 22—after subregulation (1) insert:
 - (1a) A regulated entity within the ambit of subregulation (1) is identified as a **relevant electricity retailer** for the purposes of section 94B of the Act.
- (3) Regulation 22(2)—delete "an electricity entity" and substitute:
 - a regulated entity

9—Variation of regulation 23—Interpretation

- (1) Regulation 23(1), definition of **energy credit**, (a)—delete "ELEAT" and substitute:
 - EEAT
- (2) Regulation 23(1), definition of **EGRT**—delete "licence"
- (3) Regulation 23(1), definition of **ELEAT**—delete the definition and substitute:
 - EEAT**—means an electricity energy audit target calculated in accordance with subregulation (3);
- (4) Regulation 23(1), definition of **relevant electricity retailer**—delete "an electricity entity" and substitute:
 - a regulated entity
- (5) Regulation 23(1), definition of **relevant gas retailer**—delete "the holder of a licence under the *Gas Act 1997* authorising the retailing of gas" and substitute:
 - a regulated entity within the meaning of the *Gas Act 1997* authorised to sell gas by retail (whether or not the entity is required to hold a licence under that Act)
- (6) Regulation 23(3)—delete **ELEAT** wherever occurring and substitute in each case:
 - EEAT**

10—Variation of regulation 28—Notification and adjustment of targets

Regulation 28(1)(a)—delete *ELEAT* and substitute:

EEAT

11—Variation of regulation 29—Energy audits

Regulation 29—delete *ELEAT* wherever occurring and substitute in each case:

EEAT

12—Variation of regulation 33—Retailers may enter into arrangements

Regulation 33(3)—delete *ELEAT* and substitute:

EEAT

13—Variation of regulation 38—Functions and powers of system controller

Regulation 38(1)(a)—delete "electricity entities" and substitute:

regulated entities

14—Variation of regulation 39—Prescribed classes of customers

Regulation 39(c) and (d)—delete paragraphs (c) and (d)

15—Insertion of Part 6A

After Part 6 insert:

Part 6A—Contestable services

39A—Contestable services

- (1) For the purposes of section 36AF(3)(a) of the Act, a connection service—
 - (a) which is provided to a standard—
 - (i) that is of a higher or lower quality or reliability than the standard of quality or reliability required by the *National Electricity Rules*, any code made by the Commission under the *Essential Services Commission Act 2002* relating to electricity distribution or any other relevant instrument; or
 - (ii) that exceeds the levels of service or plant ratings required by the connection assets of the operator of the distribution network to which the connection relates; and
 - (b) to which a customer is required to contribute to the cost of providing the service,

is prescribed.

- (2) For the purposes of section 36AF(3)(b) of the Act, the following requirements are specified and must be applied in relation to the provision of a contestable service prescribed under subregulation (1):
- (a) a customer may request the operator of a distribution network to prepare technical specifications for the construction of connection assets or an extension to the network (*assets or an extension*);
 - (b) if a request is made under paragraph (a), the operator must only prepare technical specifications if the customer—
 - (i) supplies the operator with the information that is reasonably required to allow the preparation of the specifications; and
 - (ii) pays a reasonable fee (which must not exceed an amount approved by the Commission) to the operator for the preparation of the specifications;
 - (c) the technical specifications prepared by the operator must set out the general design parameters and operating requirements for the assets or an extension to enable connection to the network and must—
 - (i) contain sufficient details to allow the customer to call for tenders from third parties for the design and construction of the assets or an extension; and
 - (ii) contain details of the voltage of the connection, required current rating, minimum transformer sizes, and other equipment requirements; and
 - (iii) contain details of the operator's technical and maintenance requirements, to ensure the works, when designed and completed—
 - (A) are compatible with the network; and
 - (B) are capable of being operated and maintained by the operator in accordance with its operations and maintenance procedures; and
 - (C) do not adversely affect the network or other persons connected to the network; and
 - (iv) inform the customer that tenderers must submit separate amounts for designing and constructing the connection assets or designing and undertaking an extension; and
 - (v) inform the customer of a reasonable period for conducting the tender, given the nature of the works and the technical specifications;

- (d) the operator must prepare the technical specifications as requested by the customer—
 - (i) if the preparation of the specifications involves complex work—within a reasonable period agreed with the customer after receipt of the request (and that period must not exceed 20 business days); or
 - (ii) in any other case—within the period of 10 business days after receipt of the request;
 - (e) a customer may call for tenders for the design and construction of the assets or an extension, based on the technical specifications prepared by the operator;
 - (f) if, within the period specified under paragraph (c)(v), the customer notifies the operator that it has selected a successful tenderer, the operator must liaise, in a reasonable manner having regard to paragraph (g), with the customer and the successful tenderer about the following matters:
 - (i) the design and construction of the assets or an extension;
 - (ii) payments from the customer and payments to the successful tenderer;
 - (iii) warranties in relation to the work performed and the equipment installed;
 - (iv) the program for undertaking the works;
 - (v) handing over the assets or an extension to the operator on completion of the works;
 - (g) the operator is not obliged to accept the design and construction of the assets or an extension by a successful tenderer if the operator considers on reasonable grounds that—
 - (i) the successful tenderer does not have the requisite skill and competence to undertake the design and construction of the works in accordance with the technical specifications; or
 - (ii) the proposed design and construction does not meet the technical specifications, in particular, the matters referred to in paragraph (c)(iii);
 - (h) if a dispute between a customer and an operator arises under paragraph (g), the customer or operator may refer the dispute to the Technical Regulator for resolution.
- (3) In this regulation—
- connection** means a physical link between a distribution network and a customer’s premises to allow the flow of electricity;

connection alteration means an alteration to an existing connection including an addition, upgrade, extension, expansion, augmentation or any other kind of alteration;

connection assets means those components of a distribution system which are used to provide a connection service;

connection service means the design and construction of connection assets that may be built separate to, or in isolation from, the existing distribution network relating to either or both of the following:

- (a) a service relating to a new connection for premises;
- (b) a service relating to a connection alteration;

extension means works (outside the boundaries of the operator's distribution network (as it existed before the construction of any connection assets or an extension on behalf of a customer in accordance with this regulation)) required for the connection requested by the customer;

new connection means a connection established or to be established in accordance with Chapter 5A of the *National Electricity Rules* and relevant energy laws, where there is no existing connection.

16—Insertion of Part 9A

After Part 9 insert:

Part 9A—Regulation of NERL retailers

44A—NERL retailers to comply with code provisions and other requirements

For the purposes of section 63AB(1) of the Act, a NERL retailer must comply with—

- (a) a code made by the Commission under the *Essential Services Commission Act 2002* relating to electricity metering; and
- (b) if the scheme under Part 4 of these regulations applies to the retailer, a code made by the Commission under the *Essential Services Commission Act 2002* relating to residential energy efficiency; and
- (c) the technical and safety requirements or standards prescribed under Parts 10, 11 and 12 of these regulations;
- (d) clause 8.2 (as amended from time to time) of the electricity pricing order under section 35B of the Act.

Note—

Regulation 22 provides for the application of a scheme relating to energy efficiency to NERL retailers.

44B—Inset networks

- (1) For the purposes of section 63AB(1)(c) of the Act, an exempt seller within the meaning of the *National Energy Retail Law (South Australia)* may only carry on operations as an inset network operator or inset network retailer if the exempt seller ensures that an inset customer has an effective right of access to a NERL retailer of the customer's choice.
- (2) For the purposes of this regulation, an inset customer has ***an effective right of access to a NERL retailer of the customer's choice*** only if the customer may—
 - (a) have access to and use the inset network for the purpose of consuming electricity purchased by the customer from a NERL retailer of the customer's choice; and
 - (b) install, maintain and use meters and other equipment necessary for that purpose,without any charge being payable by the customer (other than to the NERL retailer) or by the NERL retailer.
- (3) In this regulation—
inset customer, inset network, inset network operator and inset network retailer have the same respective meanings as in regulation 15.

44C—Sale of electricity to small customers—market contract without early termination fee to be offered

- (1) For the purposes of section 63AB(1)(e) of the Act, a NERL retailer must be willing to offer a market retail contract to small customers under which the NERL retailer agrees not to directly or indirectly charge a small customer who is a party to the contract a fee for early termination of the contract no matter what the reason for termination may be.
- (2) In connection with the operation of subregulation (1)—
 - (a) a NERL retailer must clearly identify in naming the contract that it offers for the purposes of subregulation (1) that no fee applies for early termination of the contract; and
 - (b) a NERL retailer must provide information about the contract that it offers for the purposes of subregulation (1) to its existing small customers, and to small customers more generally (and, in so doing, must comply with any requirements specified by the Commission).
- (3) In this section—
market retail contract has the same meaning as in the *National Energy Retail Law*.

44D—Participation in ombudsman scheme

For the purposes of section 63AC(1) of the Act, the prescribed level is 750 MW.h.

44E—Annual administration fee

- (1) For the purposes of section 63AE(2) of the Act, the annual administration fee is to be calculated in accordance with the following formula:

$$X = \frac{(EA + ESC + AEMC + Q)}{Y}$$

where—

X is the annual administration fee for a NERL retailer;

EA is the costs determined by the Minister of the administration of the Act;

ESC is the costs determined by the Minister of the administration by the Commission of the *Essential Services Commission Act 2002* attributable to the retailing of electricity to small customers;

AEMC is the costs referred to in subregulation (2);

Q is the amount determined by the Minister to adjust the annual administration fee based on events that occurred during the period to which the previous annual administration fee related (such as a new entrant to the market for the retailing of electricity) or such other matter relating to that previous period that the Minister thinks fit;

Y is the number of NERL retailers that retail electricity to small customers at the commencement of the period to which the annual administration fee relates.

- (2) For the purposes of section 63AE(7)(c) of the Act, the costs determined by the Minister of the administration in relation to retailing of electricity in South Australia of Part 9 of the *National Energy Retail Law (South Australia)* by the Australian Energy Market Commission established by the *Australian Energy Market Commission Establishment Act 2004* are prescribed.
- (3) If a NERL retailer commences retailing electricity to small customers as a NERL retailer during a period to which an annual administration fee relates, the annual administration fee for the NERL retailer is to be adjusted by multiplying—
- the annual administration fee that would have been payable by the NERL retailer had it been retailing electricity as a NERL retailer during the whole of the relevant period; and
 - the proportion that the number of whole months between the commencement of retailing and the end of the relevant period bears to 12 months.

- (4) If a relevant entity within the meaning of section 33 of the *National Energy Retail Law (South Australia) Act 2011* had, before 1 February 2013, paid (as an electricity entity under the *Electricity Act 1996*) to the Commission a licence fee under section 20 of the Act in respect of the whole or any part of the period commencing on 1 February 2013 and ending on 1 February 2014, the Commission must determine an amount in relation to the licence fee that is to be offset against the annual administration fee that applies to the entity, or credited or refunded to the entity (as determined by the Commission).

17—Revocation of regulation 91

Regulation 91—delete the regulation

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

with the advice and consent of the Executive Council
on 31 January 2013

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