



New South Wales

# Electricity Supply (General) Amendment (Customer Contracts) Regulation 1996

under the  
Electricity Supply Act 1995

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the Electricity Supply Act 1995.

MICHAEL EGAN, M.L.C.  
Minister for Energy

## Explanatory note

The objects of this Regulation are to amend the *Electricity Supply (General) Regulation 1996*:

- (a) to protect retail customers against the possible imposition of unfair terms in standard form customer connection contracts, and
- (b) to protect franchise customers against the possible imposition of unfair terms in standard form customer supply contracts, and
- (c) to create certain rights for customers in relation to customer connection services and electricity supply, and
- (d) to prescribe the procedure for customers making appeals against certain decisions of electricity distributors or retail suppliers for the purposes of section 96 of the *Electricity Supply Act 1995*, and
- (e) to provide for the accreditation of persons to provide certain contestable services and to provide appeal rights in that regard, and
- (f) to prescribe certain other matters.

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### **Accreditation of people to provide certain electrical or other services**

This Regulation gives a customer, during a transitional period, the right to elect to have any required electrical goods, electrical services or other goods or services provided by a person other than the electricity distributor and provides that a person who provides such electrical or other services must be accredited to provide those services, in accordance with the Regulation. (See proposed clauses 16–24 and Schedule 1)

### **Rights to electricity connection and electricity supply**

A person who owns or occupies premises and who makes an application to an electricity distributor for the provision of customer connection services has a right to have premises provided with those services provided that the premises are located within the distribution district of the distributor. (See section 15 of the Act) That right is subject to any provision of the Act or the regulations that authorises the disconnection of those premises from, or the refusal to connect those premises to, a distribution system. This Regulation prescribes certain circumstances in which such disconnection or refusal is authorised. Similarly, section 34 of the Act creates a right to the supply of electricity to premises within the distribution system of an electricity distributor. That right is qualified by the possibility that the Act or regulations may authorise the refusal, suspension or discontinuance of the supply of electricity. This Regulation sets out certain circumstances for that purpose. (See proposed clauses 25 and 26)

### **Standard form contracts**

Section 19 of the *Electricity Supply Act 1995* requires an electricity distributor to prepare a standard form customer connection contract to establish the conditions on which it will provide customer connection services. Under the Act, customer connection services means the connection of any premises to an electricity distributor's distribution system, or an increase in the maximum capacity of any premises' existing connection to an electricity distributor's distribution system. Section 39 imposes a similar obligation on a retail supplier to prepare a standard form customer supply contract for franchise customers. Sections 20 (1) (g) and 40 (l) (h) provide for the regulations to prescribe additional matters for which the standard

form customer contracts must make provision. Section 106 (1) (c) allows for regulations to be made for and with respect to the form and content of standard form customer connection and customer supply contracts.

This Regulation prescribes certain matters that must be included in standard form customer connection contracts and standard form customer supply contracts. These include the basis of charging, standards of service and the resolution of disputes under the contracts. (See proposed clause 28 and Schedule 2)

### **Customer consultative groups**

Section 91 (2) provides that one of the functions of a customer consultative group is to provide information and advice to an electricity distributor on certain matters, including the form and content of the electricity distributor's standard form customer connection contracts and standard form customer supply contracts and any amendments to those contracts. This is expressed to be subject to the regulations. This Regulation provides that a customer consultative group does not have any function to advise an electricity distributor in relation to an amendment to a standard form customer contract that arises from an amendment to a code or document referred to in that standard form customer contract (but only if that code or document is approved by the Director-General of the Department of Energy or issued by the Standards Association of Australia). (See proposed clause 30)

### **Customer appeals**

Section 96 of the Act creates a right to appeal against certain decisions of electricity distributors and retail suppliers. This Regulation prescribes the procedure for making an appeal and for dealing with an appeal. (See proposed clauses 32–39)

### **Other amendments**

This Regulation also imposes an obligation on electricity distributors to keep certain records (see proposed clause 31) and makes certain other consequential amendments.

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This Regulation is made under the *Electricity Supply Act 1995* including section 20 (Matters for which standard form customer connection contracts must provide), section 40 (Matters for which standard form customer supply contracts must provide), section 96 (appeals), section 106 (the general regulation making power) and clause 1 of Schedule 6 (savings and transitional regulations).

### **No application to access disputes under NSW State Electricity Market Code**

An access regime (conforming to the principles of clause 6 (4) of the *Competition Principles Agreement* between the Commonwealth, the States and the Territories, dated 11 April 1995) for transmission and distribution systems is not dealt with in this Regulation. Such a regime is separately provided for by the Market and System Operator under the *NSW State Electricity Market Code* as required by section 78 of the Act (for persons who hold network operators' or wholesale traders' authorisations granted under Part 2 of the Act).

The terms and conditions of access under the *NSW State Electricity Market Code*, and the resolution of access disputes by the *Independent Pricing and Regulatory Tribunal* in accordance with the Code, is not covered by this Regulation.

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## **Electricity Supply (General) Amendment (Customer Contracts) Regulation 1996**

### **1 Name of Regulation**

This Regulation is the *Electricity Supply (General) Amendment (Customer Contracts) Regulation 1996*.

### **2 Commencement**

This Regulation commences on 22 October 1996.

### **3 Amendment of Electricity Supply (General) Regulation 1996**

The *Electricity Supply (General) Regulation 1996* is amended as set out in Schedule 1.

### **4 Note**

The explanatory note does not form part of this Regulation.

## Schedule 1 Amendments

### [1] Clause 3 Definitions

Insert in alphabetical order in clause 3:

*contestable service* means:

- (a) any service provided for the purpose of complying with Division 4 of Part 3 of the Act, and
- (b) any service comprising work relating to an extension of an electricity distributor's distribution system or an increase in the capacity of an electricity distributor's distribution system.

*customer:*

- (a) for the purposes of a standard form customer connection contract, means a franchise customer or non-franchise customer, and
- (b) for the purposes of a standard form customer supply contract, means a franchise customer.

*licence holder:*

- (a) for the purposes of a standard form customer connection contract, means the electricity distributor, and
- (b) for the purposes of a standard form customer supply contract, means the retail supplier.

*recognised code* or *recognised document*, means a code or document approved in writing by the Director-General of the Department of Energy, notice of which has been given in a newspaper circulating throughout the State.

*standard form customer contract* means a standard form customer connection contract or a standard form customer supply contract.

**[2] Clause 6 Maximum allowable amount**

Omit “paragraph (b)” from clause 6 (1). Insert instead “paragraph (a)”.

**[3] Clause 6 (1)**

Omit “section 73 (6)”. Insert instead “section 72 ( 6 )” .

**[4] Clauses 16–40, Schedule 1 and 2**

Insert after clause 15:

**16 Customer may choose supplier and contractor**

- (1) For the purpose of complying with any requirement imposed under Division 4 of Part 3 of the Act or under a customer connection contract, a customer may elect:
  - (a) to have any required electrical or other goods provided by the electricity distributor (in the case of goods that are available from the electricity distributor) or by any other person, and
  - (b) to have any required electrical or other services provided by the electricity distributor (in the case of services that are available from the electricity distributor) or by any other person.
- (2) A person who provides such a service must be accredited under this Part in relation to that service.
- (3) Subclause (1) (b) does not apply:
  - (a) in relation to any service of a kind referred to in Column 1 of the Table in Schedule 1, until:
    - (i) the date specified in Column 2 of that Table in respect of that service, or

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- (ii) such earlier date as the electricity distributor determines and notifies in a newspaper circulating in the electricity distributor's distribution district,
  - (b) in relation to any other service, until 30 June 1998.
- (4) If, immediately before the commencement of this Regulation, the electricity distributor has systems and procedures (including accreditation requirements) in place, whereby a person other than the electricity distributor may be permitted to provide a nominated class of contestable service, then a person who is eligible under the electricity distributor's systems and procedures to provide that class of contestable service is taken to have been accredited to do so under this Regulation.
- (5) This clause ceases to have effect on the commencement of section 31 of the Act.

#### **17 Application for accreditation**

Any person may apply to an electricity distributor for accreditation to provide contestable services.

#### **18 Grant of accreditation**

An electricity distributor must not accredit a person to provide contestable services unless the electricity distributor is satisfied that the person is competent to provide the relevant contestable service, having regard to the applicable provisions of its code relating to the accreditation of persons to provide the service.

#### **19 Giving of undertakings**

An electricity distributor may require a person to give undertakings of the following kinds before the electricity distributor will accredit the person:

- (a) to comply with specified procedures and systems of the electricity distributor for co-ordination of the contestable service provided,



- (b) to comply with the directions of the electricity distributor in relation to work on or near the electricity distributor's distribution system,
- (c) to indemnify the electricity distributor against any loss or damage incurred as a result of any contestable service provided by the accredited person,
- (d) to maintain a specified level of insurance at all times while accredited.

## **20 Rating of accredited persons**

- (1) An electricity distributor may assign a rating to an accredited person on the basis of the electricity distributor's assessment of that person's work.
- (2) That rating is to be related to:
  - (a) the level of supervision required of the person providing the contestable service, and
  - (b) the amount of inspection required of the provision of the contestable service by that accredited person, and
  - (c) any other factors that the electricity distributor may determine.

## **21 Availability of lists of accredited persons**

- (1) Each electricity distributor must make available to the public a list of all persons who are accredited to provide a particular contestable service.
- (2) The list must contain the names and contact details of, and any rating assigned to, such persons.
- (3) The list must be kept up-to-date.

## **22 Suspension of accreditation**

- (1) An electricity distributor may suspend the accreditation of a person who is accredited to provide contestable services at any time on the grounds of safety. A suspension has immediate effect.

- (2) The suspension continues in force until either:
- (a) the person's accreditation is cancelled in accordance with clause 23, or
  - (b) the suspension is lifted by the electricity distributor.

### **23 Cancellation of accreditation**

- (1) An electricity distributor may cancel the accreditation of a person who is accredited to provide contestable services if the electricity distributor is satisfied that:
- (a) the person is no longer competent to provide the contestable service for which the person is accredited (having regard to the results of any inspection by the electricity distributor or any audit of the accredited person's performance), or
  - (b) the person has been convicted of an offence against the Act or the *Electricity Safety Act 1945* or any regulations under those Acts, or
  - (c) the person was accredited on the basis of false or misleading information or a failure to disclose or provide required information, or
  - (d) the person has breached any undertaking given by the person to the electricity distributor, or
  - (e) it is necessary to do so on any other grounds relating to the safety of the work carried out or to public safety.
- (2) Before cancelling a person's accreditation, the electricity distributor:
- (a) must cause written notice of the proposed cancellation to be given to the person, and
  - (b) must give the person a reasonable opportunity to make representations to the electricity distributor in relation to the proposed cancellation, and
  - (c) must have regard to any representations so made.

- (3) If, after having regard to any representations made by the person, the electricity distributor decides to proceed with the proposed cancellation, the electricity distributor must give to the person a written notice:
  - (a) stating that the accreditation is cancelled, and
  - (b) giving reasons for the cancellation, and
  - (c) stating the date from which the Cancellation takes effect.
- (4) The cancellation takes effect on the date specified in that notice.

#### **24 Appeal against decisions regarding accreditation**

- (1) A person may apply to the electricity distributor for a review:
  - (a) of a decision by an electricity distributor to refuse to accredit the person to provide a particular contestable service, or
  - (b) of a decision by an electricity distributor to suspend or cancel the person's accreditation to provide a particular contestable service, or
  - (c) of the failure by an electricity distributor, after suspending a person's accreditation, to cancel that accreditation, or lift that suspension, within a reasonable time.
- (2) The appeal is to be dealt with in accordance with the procedure set out in Part 7. (An appeal arising under subclause 1 (c) is taken to be an appeal against a decision by an electricity distributor not to act on a suspension.)

## **Part 5 Customer rights**

### **25 Limitation on right to have premises provided with customer connection services**

- (1) For the purposes of section 15 (3) of the Act, an electricity distributor is authorised to disconnect premises from, or refuse to connect premises to, a distribution system if the person who owns or occupies the premises:
  - (a) has failed to provide any security required by the electricity distributor for the payment of any charge, or
  - (b) has failed to pay an amount due to the electricity distributor, or
  - (c) has refused or failed to give an authorised officer access to any premises supplied with connection services by the electricity distributor for any of the purposes specified in section 54 of the Act, or
  - (d) has obstructed the authorised person in relation to any act, matter or thing done or to be done in carrying out those purposes, or
  - (e) is not a party to a contract for the supply of electricity under which a retail supplier is supplying electricity, or
  - (f) is a party to a contract for the supply of electricity and the retail supplier responsible for supplying the customer with electricity under that contract has notified the electricity distributor that the customer's supply is to be discontinued in accordance with that contract.
- (2) An electricity distributor must not disconnect premises from a distribution system unless:
  - (a) the electricity distributor has first provided the customer with reasonable notice of the intention to

disconnect, and has given the customer reasonable time to remedy the failure, refusal or obstruction referred to in subclause (1) (a)–(e), or

- (b) the retail supplier referred to in subclause (1) (f) has first notified the electricity distributor that it has provided the customer with reasonable notice of the intention to discontinue supply of electricity, and has given the customer reasonable time to remedy the failure, refusal or obstruction on which that intention is based.
- (3) Nothing in this clause affects the right to interrupt continuous supply as agreed in a standard form customer connection contract.
- (4) Nothing in this clause affects any right or obligation to disconnect premises, or to refuse to connect premises, arising from the operation of the *Electricity Safety Act 1945*.

## **26 Limitation on right to have premises supplied with electricity**

- (1) For the purposes of section 34 (3) of the Act, an electricity distributor is authorised to refuse to supply premises with electricity, or to discontinue the supply of electricity, if the person who owns or occupies the premises:
  - (a) has failed to provide the security required by the electricity distributor for the payment of any charge, or
  - (b) has failed to pay an amount due to the electricity distributor, or
  - (c) has refused or failed to give an authorised officer access to any premises supplied with electricity by the electricity distributor in accordance with any right to access provided for in the Act or in the customer supply contract, or

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- (d) has obstructed the authorised person in relation to any act, matter or thing done or to be done in carrying out any function under the relevant customer supply contract.
- (2) An electricity distributor must not discontinue the supply of electricity to premises unless the electricity distributor has first provided the person who owns or occupies the premises with reasonable notice of the intention to discontinue supply, and has given that person reasonable time to remedy the failure, refusal or obstruction referred to in subclause (1).
- (3) Nothing in this clause affects the right to interrupt continuous supply as agreed in a standard form customer supply contract.
- (4) Nothing in this clause affects any right or obligation to refuse to supply, or to discontinue supply, arising from the operation of the *Electricity Safety Act 1945*.

### **Part 6 Standard form customer contracts**

#### **27 Standard form customer contracts must be in plain English**

- (1) A licence holder must use its best endeavours to ensure that a standard form customer contract is expressed unambiguously and in plain English.
- (2) All words in the standard form customer contract must be printed in a size and style that is easy to read.

#### **28 Matters for which standard form customer contracts must provide**

- (1) For the purposes of sections 20 (1) (g), 40 (1) (h) and 106 (1) (c) of the Act, a standard form customer contract must make provision for the matters set out in Part 1 of Schedule 2.

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- (2) For the purposes of section 106 (1) (c) of the Act, the matters for which a standard form customer contract is required to make provision by sections 20 (1) (a)–(c) and 40 (1) (a)–(c) of the Act must be provided for in the manner set out in Part 2 of Schedule 2.
  - (3) For the purposes of section 106 (1) (c) of the Act, a standard form customer contract must contain the provisions set out in Part 3 of Schedule 2.
  - (4) Variations of a minor nature may be made to the provisions set out in Part 3 of Schedule 2 where necessary to enable the provisions to be more readily understood within the context of the contract, without affecting the substance of the provisions.
  - (5) This clause does not limit any other provision (not inconsistent with the Act or this Regulation) that may be contained in a standard form customer contract or prevent the inclusion in a contract of any other matter that may be included under section 20 (1) (a)–(c) or 40 (1) (a)–(c) of the Act.

#### **29 Giving of notice of standard form customer contracts and amendments**

- (1) For the purposes of sections 21 (2) (b) and 41 (2) (b) of the Act, a notice of the terms of a standard form customer contract published in a newspaper must include the following particulars:
  - (a) that the standard form customer contract is a new contract,
  - (b) whether the standard form customer contract applies to new customers only, or whether it applies to existing customers,
  - (c) a summary of the scope, intent and general effect of the standard form customer contract.

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- (2) For the purposes of sections 21 (2) (b), 22, 41 (2) (b) and 42 of the Act, a notice of the terms of an amendment to a standard form customer contract published in a newspaper must include the following particulars:
- (a) a description of the existing standard form customer contract to which the amendment relates,
  - (b) whether the amendment applies to new customers only, or whether it applies to existing customers under the relevant standard form customer contract,
  - (c) a summary of the scope, intent and general effect of the amendment.
- (3) For the purposes of section 21 (1), 22, 41 (1) and 42 of the Act, an amendment to a standard form customer contract that arises from an amendment to a document referred to in that contract that is issued by the Standards Association of Australia, or is a recognised document, and that is expressed to be in force from time to time, takes effect on the date on which the amendment to the document is published by the Standards Association of Australia, or by the Director-General of the Department of Energy, or on such other date as that amendment is expressed to commence at the time of publication.

### **30 Limitation on functions of customer consultative groups**

For the purposes of section 91 (2) (a) of the Act, if a standard form customer connection contract or standard form customer supply contract of an electricity distributor refers to any code or document issued by the Standards Association of Australia, or to any recognised code or other recognised document, the customer consultative group does not have the function of advising the electricity distributor in relation to amendments to that code or document.



### 31 Keeping of records

For the purposes of section 106 (1) (f) of the Act, an electricity distributor must keep a record of non-franchise customers.

## Part 7 Appeals

### 32 Definitions

In this Part:

*alternative dispute resolution procedures* includes negotiation, conciliation and mediation.

*appeal* means an appeal under section 96 of the Act or under clause 24.

*appellant* means a person who makes an appeal.

*respondent* means the electricity distributor or retail supplier who made the decision appealed against.

### 33 Appeals against decisions of electricity distributors

- (1) An appeal by a person against the decision of an electricity distributor as to:
  - (a) a charge payable by the person under a standard form customer connection contract, or
  - (b) the accreditation of the person to provide a contestable service,must be made in accordance with this clause.
- (2) The appeal:
  - (a) must be in writing, and
  - (b) must be served on the electricity distributor no later than 28 days after the person receives written notice of the decision, and
  - (c) must state the reasons why the appellant considers that the decision should be reviewed.

**34 Appeals against decisions of retail suppliers**

- (1) An appeal by a person against the decision of a retail supplier as to:
  - (a) the supplier's classification of the person as a franchise or non-franchise customer, or
  - (b) a charge payable by the person under a standard form customer supply contract,must be made in accordance with this clause,
- (2) The appeal:
  - (a) must be in writing, and
  - (b) must be served on the retail supplier no later than 28 days after the person receives written notice of the decision, and
  - (c) must state the reasons why the appellant considers that the decision should be reviewed.

**35 Review of decision by electricity distributor or retail supplier**

- (1) On receiving an appeal the respondent must review its decision.
- (2) After reviewing its decision, the respondent:
  - (a) may determine that the decision is to stand, or
  - (b) may determine to vary or revoke the decision.
- (3) As soon as practicable after it makes its determination, the respondent must give written notice to the appellant:
  - (a) of its determination, together with its reasons for the determination, and
  - (b) if the determination is to vary the decision, of the manner in which the decision is to be varied, and
  - (c) of the rights available to the appellant under this Part, and

- (d) of the circumstances in which the appellant may become liable for costs under this Part.
- (4) A respondent that fails to give such a notice within 14 days after the appeal is made is taken to have determined that its decision is to stand.

### **36 Request for alternative dispute resolution**

- (1) An appellant who is dissatisfied with a determination of an appeal by a respondent may request the appeal be dealt with by way of alternative dispute resolution procedures.
- (2) The request:
  - (a) must be in writing, and
  - (b) must be served on the respondent no later than 28 days after the appellant received written notice of the determination or (if no such notice is received within 14 days after the appeal was made) within 42 days after the appeal was made, and
  - (c) must state the reasons why the appellant is dissatisfied with the determination by the respondent.
- (3) As soon as practicable after receiving such a request, the respondent must give written notice to the appellant:
  - (a) of the rights available to the appellant under this Part, and
  - (b) of the circumstances in which the appellant may become liable for costs under this Part.

### **37 Alternative dispute resolution**

- (1) The respondent must establish an alternative dispute resolution procedure which must:
  - (a) operate independently of the respondent, and

- (b) be kept separate from the affairs of the respondent, and
  - (c) be convenient for and accessible to the appellant, and
  - (d) operate without cost to the appellant, and
  - (e) allow the appellant to choose whether to be bound by any finding or determination of the facilitator, and
  - (f) allow the facilitator to choose not to deal with the appeal, if the facilitator forms the view that:
    - (i) the appellant has been vexatious in pursuing the appeal, or
    - (ii) the appeal is an abuse of process.
- (2) The appellant may elect to use the alternative dispute resolution procedure made available by the respondent under subclause (1).
- (3) If the appellant does not elect to use that procedure, then:
- (a) the alternative dispute resolution procedure is to be as agreed by the appellant and the respondent, and
  - (b) the facilitator is to be chosen jointly by the appellant and the respondent, and
  - (c) participation is to be voluntary and the alternative dispute resolution procedure may be terminated at any time by either party or by the facilitator, and
  - (d) the appellant and the respondent are to bear their own costs of participating in the alternative dispute resolution procedure, and
  - (e) the costs of the facilitator are to be borne by the appellant and the respondent in equal proportions.

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**38 Arbitration**

- (1) An appellant who is dissatisfied with a determination by the respondent of an appeal may refer the appeal to arbitration.
- (2) Such a referral may not be made until:
  - (a) the time provided for in clause 36 for a request for the appeal to be dealt with by way of alternative dispute resolution procedures has expired, or
  - (b) any alternative dispute resolution procedures commenced under clause 36 have terminated without resolution of the appeal.
- (3) That referral must:
  - (a) be in writing, and
  - (b) be served on the respondent, and
  - (c) state the reasons why the appellant considers that the respondent's determination should be reviewed.
- (4) As soon as practicable after receiving such a referral, the respondent must give written notice to the appellant:
  - (a) of the rights available to the appellant under this Part, and
  - (b) of the circumstances in which the appellant may become liable for costs under this Part.
- (5) The arbitrator is to be chosen and appointed jointly by the appellant and the respondent or, if an arbitrator has not been appointed within 21 days after the request for arbitration is made, by the Director-General of the Department of Energy.
- (6) In deciding an appeal, the arbitrator:
  - (a) must apply any principles determined by the Minister with respect to the determination of appeals, and
  - (b) must have regard to the respondent's determination of the appeal.

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- (7) The arbitrator must give written notice to the parties:
  - (a) of his or her decision, together with his or her reasons for the decision. and
  - (b) if the decision is to vary the respondent's determination of the appeal, of the manner in which the determination is to be varied.
- (8) The arbitrator's decision on an appeal is final and binding on the parties to the appeal.
- (9) The *Commercial Arbitration Act 1984* applies to any arbitration under this clause, subject to the provisions of this clause.

### 39 Costs of arbitration

- (1) The costs of arbitration are to be borne by the respondent unless the arbitrator determines otherwise.
- (2) The arbitrator may determine the proportion of the costs to be borne by each of the parties, having regard to the merits of the case and, in that event, the costs are to be borne by the parties according to the arbitrator's determination.

## Part 8 Accreditation of persons to provide certain electrical and other services

### 40 Code for accreditation

- (1) An electricity distributor must prepare a code for the accreditation by the electricity distributor of persons who may provide contestable services.
- (2) The code must include the following matters:
  - (a) the qualifications, experience and training required for accreditation, including training in the requirements of the electricity distributor in relation to its distribution system,
  - (b) the technical performance required of an accredited person in providing the relevant work,

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- (c) any commercial prudential requirements (including insurance) required of the person (or in respect of that person),
  - (d) the means by which a person applying for accreditation can give evidence of his or her qualifications, experience and training and any other necessary matter,
  - (e) payments required for application for, or renewal of, accreditation,
  - (f) any undertakings required to be made by an accredited person,
  - (g) the procedure for inspection of an accredited person by the electricity distributor,
  - (h) the procedure for assessment by the electricity distributor of the work of an accredited person,
  - (i) the extent to which the electricity distributor recognises accreditation by other electricity distributors or third party accreditation agencies for similar classes of work,
  - (j) whether or not, and the extent to which, the electricity distributor's accreditation scheme is operated jointly with or on behalf of other electricity distributors,
  - (k) the policy for consultation with relevant representative electrical contracting industry bodies in receiving submissions on the code, and reviewing and developing the code.
- (3) The electricity distributor:
- (a) must publish a notice in a newspaper circulating generally in the electricity distributor's distribution district stating where the code can be inspected free of charge, and
  - (b) must make the code available to the public for inspection in the manner described in the notice.

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**Schedule 1 Services**

(Clause 16)

**Table**

| <b>Column 1</b>  | <b>Column 2</b> |
|--|-----------------|
| <b>Service</b>   | <b>Date</b>     |
| Services relating to underground residential development (excluding route evaluation and environmental assessment of distribution systems) | 1 February 1997 |
| Services relating to underground industrial development (excluding route evaluation and environmental assessment of distribution systems)  | 1 June 1997     |
| Services relating to underground commercial development (excluding route evaluation and environmental assessment of distribution systems)  | 1 October 1997  |
| Services relating to overhead distribution (excluding route evaluation and environmental assessment of distribution systems)               | 1 February 1998 |
| Route evaluation and environmental assessment relating to contestable services   | 1 June 1998     |
| Services relating to street lighting   | 1 February 1997 |
| General metering (single register metering and off-peak controlled load metering) and related systems                                      | 1 February 1997 |
| All other metering and related systems for franchise customers   | 1 October 1997  |



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**Schedule 2 Standard form customer contracts**

(Clause 28)

**Part 1 Matters for which standard form customer contracts must provide**

**Note.**

This Part sets out the matters for which a standard form customer contract must provide.

**1 General aspects of contract**

Whether the standard form customer contract:

- (a) is a customer connection contract, or
- (b) is a customer supply contract, or
- (c) comprises a customer connection contract and a customer supply contract.

**2 Amendment of contract**

That the licence holder has the right to amend the standard form customer contract without the prior consent of the customer.

**3 Parties to the contract**

The customers to whom the standard form customer contract applies.

**4 Availability of Contract**

- (1) That the licence holder is obliged to make the contract (but not those parts of the contract that constitute documents referred to in the contract) available to any customer on request, free of charge at each of its offices.
- (2) That the contract (including those parts of documents referred to in the contract) is available for inspection free of charge by any person at each of those offices, at least during office hours.
- (3) The means by which a customer may arrange to see, or obtain a copy of, all or any part of the contract.

## **5 Service to be provided by licence holder**

- (1) If the standard form customer contract is or includes a customer connection contract, that the services to be provided by the licence holder under the contract are or include customer connection services, being:
  - (a) the connection of premises owned or occupied by the customer to the electricity distributor's distribution system, or
  - (b) an increase in the maximum capacity of the existing connection of a customer's premises to an electricity distributor's distribution system.
- (2) If the standard form customer contract is or includes a customer supply contract, that the services to be provided by the licence holder under the contract are or include the supply of electricity to premises owned or occupied by the customer.
- (3) A separate statement of each of the other services to be provided by the licence holder under the standard form customer contract.

## **6 Code for service and installation**

- (1) The name of any code relating to service and installation work related to the standard form customer contract, that is incorporated in the contract and with which the licence holder or customer must comply.
- (2) Any other installation and service requirements with which the licence holder or customer must comply.

## **7 Code for accreditation of persons to do work**

If the standard form customer contract is or includes a standard form customer connection contract, the name of the code for the accreditation by the licence holder of persons who may provide contestable services.

**8 Industry codes and ether documents not referred to in the contract**

The name of any industry code or other document:

- (a) that is applicable to any matter regulated under the contract, and
- (b) that is recognised by the Department of Energy, and
- (c) that the licence holder has chosen not to incorporate in the contract.

**9 Preparation of customer accounts**

- (1) The frequency with which accounts are to be sent to the customer.
- (2) The circumstances in which the licence holder may correct an account that has already been rendered and the manner and time for payment of a corrected amount.

**10 Information to be included in customer accounts**

The information to be included in accounts rendered by the licence holder, including the following:

- (a) the dates on which the accounting period for the account began and ended,
- (b) if a meter reading was recorded on either of those dates, particulars of the meter reading or readings,
- (c) if a meter reading was not recorded on either of those dates, information to that effect,
- (d) particulars of any tariff codes and rates of charges applicable to the provision of connection services and to the supply of electricity of each category supplied,
- (e) particulars of the quantity of electricity of each category supplied during the accounting period or estimated to have been supplied during the accounting period, and of the rates of charges for electricity supplied or estimated to have been supplied,

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- (f) the total charges to be paid in respect of the account and the particulars necessary to enable those charges to be calculated,
- (g) particulars of the average daily consumption of all electricity supplied during the accounting period in respect of that account,
- (h) if an account was rendered for the corresponding accounting period during the previous year, particulars of the average daily consumption of all electricity supplied during that previous accounting period in respect of that account,
- (i) the date by which the account must be paid,
- (j) the methods by which the account must be paid.

### 11 Costs of recovering debts from the customer

The circumstances, if any, in which the licence holder may recover the costs associated with recovering any unpaid account due to the licence holder.

### 12 Interest on unpaid accounts

- (1) The circumstances, if any, in which the licence holder may charge interest on any unpaid account due to the licence holder.
- (2) The rate at which such interest may be charged, being a rate of no more than that prescribed under section 95 (1) of the *Supreme Court Act 1970* for payment of interest on a judgment debt.

### 13 Metering

If the contract provides for the provision of metering equipment, or for the licence holder's charges to be determined wholly or partly on the basis of an electricity meter reading, the procedures and any applicable codes of practice relating to:

- (a) the registration, calibration and testing of metering equipment, and
- (b) the accuracy of recording of the quantity of electricity used.

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**14 Care of metering or other equipment**

The proper care and custody by the customer of any metering or other equipment installed by the licence holder.

**15 Access to information concerning the customer**

- (1) That the licence holder must release to the customer on request information concerning the customer and that the information must be provided to the customer within a reasonable time of the request.
- (2) The circumstances, if any, in which any information concerning a customer can be disclosed to another person.
- (3) That the information is PO be provided free of charge unless the information is or relates to meter registration on a half-hourly or time-of-day basis. In respect of the latter information, the licence holder may charge the customer for the actual cost of collecting and releasing the information (subject to any determination as to charges by the Independent Pricing and Regulatory Tribunal).
- (4) For the purposes of this clause, *information* means information concerning the supply of electricity to the customer, meter readings and meter registrations connected with the customer's account and the status of a customer's account.

**16 Documents referred to in the standard form customer contract**

- (1) In respect of any document incorporated (in whole or in part) by reference in the standard form customer contract:
  - (a) the reason for which the document has been incorporated, and
  - (b) the manner in which a customer may obtain a copy of the document and the fee payable to do so, and

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- (c) whether or not the document is recognised by the Department of Energy or issued by the Standards Association of Australia, and
  - (d) where the document is not incorporated in the standard form customer contract in full, the parts that are incorporated in that contract, or that are incorporated in any modified form.
- (2) If a document is incorporated as in force from time to time, a note to the effect that:
- (a) an amendment of any such document will have the effect of amending the standard form customer contract, and
  - (b) if the document is issued by the Standards Association of Australia, or is a recognised document, no separate notice will be given of that amendment.

### 17 Exercise of discretion

If any condition of the standard form customer contract specifies that the licence holder has a discretion in making any decision under the contract, the grounds on which that discretion may be exercised.

### 18 Variations in charges to be notified

- (1) That a variation in the rates of charges for electricity supplied, or customer connection services provided, has no effect unless a notice setting out particulars of the variation is first:
- (a) published in a newspaper or newspapers circulating throughout New South Wales or the area in which the variation is to take effect, or
  - (b) in relation to electricity supplied, or customer connection services provided, to a particular customer or group of customers, served personally or by post, or by means of a telegram or facsimile, on the person or persons to whom it applies.

- (2) That the particulars to be set out in such a notice must:
- (a) specify the date on or after which the variation is to take effect being a date that is later than the date the notice is published or served, and
  - (b) include a statement of the new rates or the amount of the variation.
- (3) That such a notice may have general application or may be limited in its application by reference to specified exceptions or factors.

### **19 Variation may not operate retrospectively**

That a variation in the rates of charges for electricity supplied, or for customer connection services provided, operates from the date specified in the relevant notice of the variation and does not operate retrospectively.

### **20 Calculation of charges if increase in rates of charges occurs**

- (1) That if the standard form customer contract is or includes a standard form customer supply contract and an account is rendered for an accounting period in which there is an increase in the rates of charges for electricity supplied, the charge for electricity supplied during the accounting period is to be calculated as follows:
- (a) the electricity supplied for the whole period is to be charged for at the rate applicable at the end of the period, and
  - (b) for each variation that occurred during that period, an adjustment component (calculated for that part of the period occurring prior to the variation) is to be deducted from the charge so calculated.
- (2) That for this purpose, the adjustment component is to be calculated in accordance with the following formula:

$$A = \frac{d}{n} (N - C)$$

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where:

- A* is the adjustment component.
- d* is the number of days in the accounting period during which electricity was supplied:
- in the case of the first or only variation, before the variation took effect, or
  - in the case of a second or subsequent variation, after the previous variation took effect and before the second or subsequent variation took effect.
- n* is the number of days in the accounting period during which electricity was supplied.
- N* is the amount of the charge for the whole of the accounting period, calculated at the rate applicable at the end of the period.
- C* is the amount of the charge for the whole of the accounting period, calculated:
- in the case of the first or only variation, at the rate applicable immediately before the variation took effect, or
  - in the case of a second or subsequent variation, at the rate applicable immediately before the second or subsequent variation took effect.

**21 Estimation of electricity supplied but not properly registered**

- (1) That if:
- (a) the standard form customer contract is or includes a customer supply contract, and
  - (b) there is a meter registering how much electricity is supplied, and



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- (c) the licence holder finds:
- (i) that metering equipment has ceased to register or has ceased to register correctly the quantity of or demand for electricity supplied, or
  - (ii) that electricity has been supplied without passing through metering equipment,

the licence holder may estimate the quantity of or demand for electricity supplied but not registered, or incorrectly registered, for any period of up to 6 months before the finding was made.

- (2) That the customer is liable to pay for, or is entitled to be paid a rebate for, the electricity so estimated.
- (3) That the metering equipment is to be regarded as not registering correctly if (and only if) its error in registration is greater than 2%, either in excess or deficiency.

## **22 Customer to give 48 hours' notice of discontinuance of supply**

- (1) That the customer must give the licence holder not less than 48 hours' notice of the customer's desire that the supply of electricity to the customer be discontinued.
- (2) That if that notice is not given, the customer remains liable for all charges (including minimum charges) in respect of the supply or services (whether customer connection services or otherwise) concerned until 48 hours after the licence holder becomes aware of the customer's desire that supply be discontinued or until the distributor discontinues or transfers that supply, whichever happens first.

## **23 Information about the Electricity Safety Act 1945**

That the *Electricity Safety Act 1945* confers powers, duties, rights and obligations on the licence holder and customers, and a brief description of the nature of those powers, duties, rights and obligations.

**Part 2 Matters required to be provided for under section 20 (1) (a)–(c) and 40 (1) (a)–(c) of the Act**

**Note.**

**Standard form customer connection contracts**

Section 20 (1) of the *Electricity Supply Act 1995* requires that a standard form customer connection contract make provision for the following matters:

- (a) the basis on which charges for its customer connection services are to be calculated,
- (b) any security to be provided by customers for payment of any such charges,
- (c) the standard of service to be provided to customers by the electricity distributor,
- (d) the requirements to be complied with by customers under Division 4 of Part 3 of the Act,
- (e) the circumstances under which premises may be disconnected from the electricity distributor's distribution system,
- (f) the procedures established by the electricity distributor for handling enquiries and complaints made by customers, and resolving disputes with customers, in relation to matters arising under the contract.

This Part sets out how the matters in paragraphs (a)–(c) are to be provided for in the standard form customer contract.

**Standard form customer supply contracts**

Section 40 of the *Electricity Supply Act 1995* requires that a standard form customer supply contract make provision for the following matters:

- (a) the basis on which charges for the supply of electricity to franchise customers are to be calculated,
- (b) any security to be provided by franchise customers for payment of any such charges,
- (c) the standard of service to be provided to franchise customers by the retail supplier,
- (d) the circumstances under which the supply of electricity to franchise customers may be discontinued,
- (e) the procedures established by the retail supplier for handling enquiries and complaints made by franchise customers, and resolving disputes with franchise customers, in relation to matters arising under the contract,

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- (f) the estimation of electricity supplied otherwise than through an electricity meter or in circumstances in which an electricity meter fails to operate or fails to operate correctly,
  - (g) the rate at which electricity is taken to have been supplied between consecutive meter readings.

This Part sets out how the matters in paragraphs (a)–(c) are to be provided for in the standard form customer contract.

## 24 Charges

The provisions of the contract dealing with the basis on which charges are to be calculated (required by section 20 (1) (a) or 40 (1) (a) of the Act) must separately provide for each of the following matters:

- (a) the charges payable for services provided by the licence holder, separating those charges into charges in respect of customer connection services and any other services,
- (b) the tariffs and charges, including any off-peak or standby tariffs, payable by that customer,
- (c) if the licence holder establishes different categories of electricity supply (according to such criteria as the licence holder may determine), the different rates for different categories of electricity supplied, but only if each category of electricity supplied is measured separately from any other category,
- (d) the availability of any off-peak or standby tariffs, and the extent to which the customer can take advantage of them,
- (e) the charges or methods of calculation of charges for any installation work:
  - (i) done on a customer's premises, or
  - (ii) incidental to the provision of customer connection services or the supply of electricity to the customer,

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- (f) the time at which any charge for any customer connection service accrues, or for the supply of electricity, accrues.

### 25 Security for payment of charges

The provisions of the contract relating to any security to be provided by the customer (required by section 20 (1) (b) or 40 (1) (b) of the Act) must separately provide for each of the following matters:

- (a) the circumstances in which the licence holder may require security to be provided by customers for payment of any charge,
- (b) if the security is to be in the form of a deposit with a financial institution, the interest, if any, that the licence holder is required to pay to the customer, or to the customer's account, in respect of any such security held by the licence holder,
- (c) the circumstances, if any, in which the licence holder can use that security to set off against any amount due on the customer's account,
- (d) when the security must or may be returned.

### 26 Standard of service to be provided to customers

The provisions of the contract dealing with the standard of service to be provided to the customer by the licence holder (required by section 20 (1) (c) or 40 (1) (c) of the Act) must separately provide for each of the following matters:

- (a) the quality of services and supply,
- (b) the reliability of services and supply,
- (c) the response to customer enquiries (including the time taken to respond to such enquiries),
- (d) the period within which services or work will be commenced in response to a customer enquiry,

- (e) the period within which services or work will be commenced so as to remedy a disruption in the service,
- (f) the period of notice required to be given when the licence holder carries out work (other than emergency work) that will disrupt the service.

### **Part 3 Standard provisions**

**Note.**

The provisions set out in this Part must be included in the standard form contract. Variations of a minor nature may be made to those provisions where necessary to enable the provisions to be more readily understood within the context of the contract, without affecting the substance of the provisions.

#### **27 Extension or increase in capacity of a distribution system**

- (1) This clause applies if:
  - (a) the provision of customer connection services to a customer requires an extension to the electricity distributor's distribution system or an increase in the capacity of the electricity distributor's distribution system so as to enable it to provide customer connection services, and
  - (b) the electricity distributor is of the opinion that a contribution is required under section 25 of the Act.
- (2) It is agreed that the customer may decide whether the work is to be carried out:
  - (a) by the electricity distributor, or
  - (b) for the electricity distributor, by a person accredited under Part 4 of the *Electricity Supply (General) Regulation 1996* chosen by the customer.

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- (3) This clause only applies to work that consists of services referred to in Column 1 of the Table in Schedule 1 to the *Electricity Supply (General) Regulation 1996* and only applies to such work:
- (a) on and from the date specified in Column 2 in relation to such services, or
  - (b) on and from such earlier date as the electricity distributor determines and notifies in a newspaper circulating in the electricity distributor's distribution district.

### **28 Procedure for dealing with certain complaints and other disputes**

- (1) Section 96 of the *Electricity Supply Act 1995* and Part 7 of the *Electricity Supply (General) Regulation 1996* provide a person with a right of appeal in respect of certain decisions of a licence holder namely,
- (a) a decision by an electricity distributor as to a charge payable by the person under a standard form customer connection contract, or
  - (b) a decision of a retail supplier as to the supplier's classification of the person as a franchise or non-franchise customer, or
  - (c) a decision of a retail supplier as to a charge payable by the person under a standard form customer supply contract.
- (2) The following provisions set out the procedure for resolving any other dispute between a customer and a licence holder in relation to any matter arising under this contract that cannot be resolved by informal negotiations between the customer and the licence holder (that is, by a telephone complaint or by other discussions).

### **29 Complaint by customer**

A complaint by a customer in relation to any matter arising under this contract:

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- (a) must be in writing, and
  - (b) must be served on the licence holder no later than 28 days after:
    - (i) the customer receives written notice of the decision under the contract, or
    - (ii) the date of the relevant act or omission, that gives rise to the complaint, and
  - (c) must state the basis of the complaint.

### **30 Consideration of complaint by licence holder**

- (1) On receiving a complaint about a decision, the licence holder must review the decision.
- (2) After considering a complaint about a decision, the licence holder:
  - (a) may determine that the decision is to stand, or
  - (b) may determine to vary or revoke the decision.
- (3) After considering a complaint about any act or omission, the licence holder:
  - (a) may determine to take certain action in relation to the complaint, or
  - (b) may determine not to take any action in relation to the complaint.
- (4) As soon as practicable after it makes its determination, the licence holder must give written notice to the customer:
  - (a) of its determination, together with its reasons for the determination, and
  - (b) if the determination is to vary the decision, of the manner in which the decision is to be varied, and
  - (c) if the determination is to take action, details of that action, and
  - (d) of the rights available to the customer under this contract, and
  - (e) of the circumstances in which the customer may become liable for costs under this contract.

- (5) If the licence holder fails to give such a notice within 14 days after the complaint is made the licence holder is taken to have determined:
  - (a) that its decision is to stand (in the case of a complaint against a decision), or
  - (b) that no action is to be taken (in the case of any other complaint).

### **31 Request for alternative dispute resolution**

- (1) If the customer is dissatisfied with a determination by the licence holder in relation to a complaint, the customer may request that an attempt be made to resolve the complaint by way of alternative dispute resolution procedures.
- (2) Such a request:
  - (a) must be in writing, and
  - (b) must be served on the licence holder no later than 28 days after the customer receives written notice of the determination or (if no such notice is received) within 42 days after the complaint was made, and
  - (c) must state the reasons why the customer is dissatisfied with the determination.
- (3) If a dispute arises between the customer and the licence holder about or in connection with this contract or any matter arising under this contract, either the customer or the licence holder may request that an attempt be made to resolve the dispute by way of alternative dispute resolution procedures.
- (4) Such a request:
  - (a) must be in writing, and
  - (b) must be served on the other party no later than 28 days after the dispute arises, and
  - (c) must state the nature of the dispute.



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- (5) As soon as practicable after a request is received by the licence holder under subclause (2) or (4), or a request is made by the licence holder under subclause (4), the licence holder must give written notice to the customer:
- (a) of the rights available to the customer under this contract, and
  - (b) of the circumstances in which the customer may become liable for costs under this contract.

### **32 Alternative dispute resolution**

- (1) The licence holder must establish an alternative dispute resolution procedure which must:
- (a) operate independently of the licence holder, and
  - (b) be kept separate from the affairs of the licence holder, and
  - (c) be convenient for and accessible to the customer, and
  - (d) operate without, cost to the customer, and
  - (e) allow the customer to choose whether to be bound by any finding or determination of the facilitator, and
  - (f) allow the facilitator to choose not to deal with the appeal, if the facilitator forms the view that:
    - (i) the customer has been vexatious in pursuing the appeal, or
    - (ii) the appeal is an abuse of process.
- (2) The customer may elect to use the alternative dispute resolution procedure made available by the licence holder under subclause (1).
- (3) If the customer does not elect to use that procedure, then:
- (a) the alternative dispute resolution procedure is to be as agreed by the customer and the licence holder, and
  - (b) the facilitator is to be chosen jointly by the customer and the licence holder, and

- (c) participation is to be voluntary and the alternative dispute resolution procedure may be terminated at any time by either party or by the facilitator, and
- (d) the customer and the licence holder are to bear their own costs of participating in the alternative dispute resolution procedure, and
- (e) the costs of the facilitator are to be borne by the customer and the licence holder in equal proportions.

### 33 Arbitration

- (1) If the customer is dissatisfied with a determination by the licence holder in relation to a complaint, the customer may refer the matter to arbitration.
- (2) If a dispute arises between the customer and the licence holder about or in connection with this contract or any matter arising under this contract, either the customer or the licence holder may refer the dispute to arbitration.
- (3) Such a referral may not be made until:
  - (a) after the time provided for in this contract for a request to attempt to resolve the complaint or dispute by alternative dispute resolution procedures has expired, and
  - (b) any alternative dispute resolution procedures commenced under this contract have terminated without resolution of the complaint or dispute.
- (4) That referral:
  - (a) must be in writing, and
  - (b) must be served on the other party to the matter or dispute, and
  - (c) in the case of a referral made by the customer in relation to a determination, must state the reasons why the customer considers that the licence holder's determination should be reviewed, and
  - (d) in the case of a referral made in relation to any other kind of dispute, must state the nature of the dispute.

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- (5) As soon as practicable after receiving such a referral, the licence holder must give written notice to the customer:
- (a) of the rights available to the customer under this contract, and
  - (b) of the circumstances in which the customer may become liable for costs under this contract.
- (6) The arbitrator is to be chosen and appointed jointly by the customer and the licence holder or, if an arbitrator has not been appointed within 21 days after the referral to arbitration is made, by the Director-General of the Department of Energy.
- (7) The arbitrator must give written notice to the parties:
- (a) of his or her decision, together with his or her reasons for the decision, and
  - (b) if the decision is to vary a determination of the licence holder, of the manner in which the determination is to be varied.
- (8) The arbitrator's decision is to be final and binding on the parties to the complaint, but only if the decision was reached after the application of any principles determined by the Minister with respect to the determination of appeals under the Act.
- (9) The costs of arbitration are to be borne by the licence holder unless the arbitrator determines otherwise.
- (10) The arbitrator may determine the proportion of the costs to be borne by each of the parties, having regard to the merits of the case and, in that event, the costs are to be borne by the parties according to the arbitrator's determination.

The *Commercial Arbitration Act 1984* applies to any arbitration under this clause, subject to the provisions of this clause.