

South Australia

National Energy Retail Regulations

under the *National Energy Retail Law*

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1—Short title

These regulations may be cited as the *National Energy Retail Regulations*.

2—Commencement

These regulations will come into operation on [insert date on which the National Energy Retail Law is to commence in the first participating jurisdiction].

Drafting note—

These regulations have been approved by the Ministerial Council on Energy and will be made by the South Australian Governor shortly before the application by the first participating jurisdiction of the Schedule to the *National Energy Retail Law (South Australia) Act 2010*. These regulations will commence on the same date and at the same time as the application of that Schedule in that jurisdiction.

3—Interpretation

In these regulations—

the Law means the *National Energy Retail Law*.

4—Jurisdictional regulator

For the purposes of the definition of *jurisdictional regulator* in section 2(1) of the Law, each of the following bodies or persons is prescribed as a jurisdictional regulator:

- (a) for the State of New South Wales—the Independent Pricing and Regulatory Tribunal of New South Wales established by section 5(1) of the *Independent Pricing and Regulatory Tribunal Act 1992* of New South Wales;
- (b) for the State of Victoria—the Essential Services Commission established by section 7(1) of the *Essential Services Commission Act 2001* of Victoria;
- (c) for the State of Queensland—the Queensland Competition Authority established by section 7 of the *Queensland Competition Authority Act 1997* of Queensland, and—
 - (i) for electricity—the regulator under section 62 of the *Electricity Act 1994* of Queensland; and
 - (ii) for gas—the regulator under section 8 of the *Gas Supply Act 2003* of Queensland;
- (d) for the State of South Australia—the Essential Services Commission established by section 4(1) of the *Essential Services Commission Act 2002* of South Australia;
- (e) for the State of Tasmania—the Regulator established under section 5 of the *Electricity Supply Industry Act 1995* of Tasmania, being the Regulator within the meaning of the *Economic Regulation Act 2009* of Tasmania;
- (f) for the Australian Capital Territory—the Independent Competition and Regulatory Commission for the Australian Capital Territory established by section 5(1) of the *Independent Competition and Regulatory Commission Act 1997* of the Australian Capital Territory;
- (g) if a body or person referred to in paragraphs (a) to (f) is abolished under an Act of a participating jurisdiction and another body or person is established under an Act of that participating jurisdiction with functions and powers that correspond to the functions and powers of the body or person referred to in paragraphs (a) to (f)—that other body or person;
- (h) if the functions and powers of a body or person referred to in paragraphs (a) to (f) are transferred to another body or person established under an Act of the relevant participating jurisdiction—that other body or person.

5—Energy ombudsman

For the purposes of the definition of *energy ombudsman* in section 2(1) of the Law, each of the following bodies or persons is prescribed as an energy ombudsman:

- (a) for the State of New South Wales—Energy and Water Ombudsman (NSW) Limited ACN 079 718 915;
- (b) for the State of Victoria—Energy and Water Ombudsman (Victoria) Limited ACN 070 516 175;
- (c) for the State of Queensland—the energy ombudsman established under Part 2 of the *Energy Ombudsman Act 2006* of Queensland;

- (d) for the State of South Australia—Energy Industry Ombudsman (SA) Limited ACN 089 791 604;
- (e) for the State of Tasmania—the Ombudsman referred to in the *Energy Ombudsman Act 1998* of Tasmania, being the Ombudsman within the meaning of the *Ombudsman Act 1978* of Tasmania;
- (f) for the Australian Capital Territory—the ACT Civil and Administrative Tribunal established under section 88 of the *ACT Civil and Administrative Tribunal Act 2008* of the Australian Capital Territory;
- (g) if a body or person referred to in paragraphs (a) to (f) is dissolved or otherwise abolished and another body or person is established with functions and powers that correspond to the functions and powers of the body or person referred to in paragraphs (a) to (f)—that other body or person;
- (h) if the functions and powers of a body or person referred to in paragraphs (a) to (f) are transferred to another body or person—that other body or person.

6—Civil penalty provisions

For the purposes of section 4(1)(b) of the Law, a provision listed in Schedule 1 is prescribed to be a civil penalty provision.

7—Business customers—upper consumption thresholds for determining status as small or large customers (section 6(2)(a) of the Law)

- (1) This regulation determines the upper consumption thresholds for determining whether business customers are small or large customers.

Note—

A small customer includes a customer who is a business customer who consumes energy below the upper consumption threshold (see section 5(2) of the Law). A large customer is a business customer who consumes energy at or above the upper consumption threshold (see section 5(3) of the Law).

- (2) The upper consumption threshold for electricity is 100 MWh per annum.
- (3) The upper consumption threshold for gas is 1 terajoule (TJ) per annum.

8—Business customers—lower consumption thresholds for determining status as small market offer customers (section 6(2)(a) of the Law)

- (1) This regulation determines the lower consumption thresholds for determining which business customers who are small customers are small market offer customers.

Note—

A small market offer customer is a small customer who is a business customer who consumes energy at or above the lower consumption threshold prescribed by the Regulations (see section 5(4) of the Law).

- (2) The lower consumption threshold for electricity is 40 MWh per annum.
- (3) The lower consumption threshold for gas is 400 gigajoules (GJ) per annum.

9—Review of consumption thresholds (section 6(2)(b) of the Law)

- (1) In this regulation—

consumption thresholds means the upper consumption thresholds and lower consumption thresholds determined by regulations 7 and 8;

review period means the period of 12 months ending with each fifth anniversary of the commencement of these regulations.
- (2) The MCE may, from time to time, review the consumption thresholds and must do so within each review period.
- (3) The MCE may, from time to time, give a direction under section 228 of the Law to the AEMC to review, and make recommendations about, the consumption thresholds.

10—Feed-in arrangement (section 154(2)(h) of the Law)

For the purposes of section 154(2)(h) of the Law, a feed-in arrangement is—

- (a) in the case of New South Wales or Queensland—the Solar Bonus Scheme established in that jurisdiction; and
- (b) in the case of Victoria—a contract with a retailer for the sale of small renewable energy generation electricity (within the meaning of section 40F of the *Electricity Industry Act 2000* of Victoria) or qualifying solar energy generation electricity (within the meaning of that section); and
- (c) in the case of South Australia—the feed-in scheme established under section 36AC of the *Electricity Act 1996* of South Australia; and
- (d) in the case of the Australian Capital Territory—an arrangement established in that jurisdiction for the payment of a renewable energy premium.

11—Content of request for Rule

- (1) For the purposes of section 246 of the Law, a request for the making of a Rule must contain the following information:
 - (a) the name and address of the person making the request;
 - (b) a description of the Rule that the person proposes be made;
 - (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 energy retail 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 energy regulatory body in the circumstances described in section 253(1)(a) of the Law—a summary of the consultation conducted by the energy regulatory body (including information about the extent of the consultation and about the issues raised during the consultation and the energy regulatory body's response to those issues).
- (2) A request under section 246 of the Law for the making of a Rule must be in writing.

Schedule 1—Civil penalty provisions

Provisions of the Rules

Rule 5(5)
Rule 16(2)(b)
Rule 17(2)
Rule 19(2)
Rule 21(4)
Rule 24(1)
Rule 25(1) and (2)
Rule 28(1) and (2)
Rule 29(1) and (7)
Rule 30(2)
Rule 31(1)–(3)
Rule 32(1) and (4)
Rule 33(3)
Rule 34(2) and (3)
Rule 40(1), (2), (3), (6) and (7)
Rule 42(1)
Rule 43(1)
Rule 44(1)–(3)
Rule 45(1) and (2)
Rule 47(5) and (6)
Rule 48(2)
Rule 50
Rule 51
Rule 52
Rule 55
Rule 56
Rule 70(4)
Rule 71
Rule 72
Rule 73
Rule 74
Rule 80
Rule 82
Rule 83
Rule 85

Provisions of the Rules

Rule 86

Rule 90

Rule 91(c)

Rule 99(4)

Rule 100(3)

Rule 106

Rule 107(2) and (3)

Rule 121(1)

Rule 122

Rule 124(1) and (2)

Rule 125(2)

Rule 126(1)

Rule 128(1)

Rule 129(1)

Rule 130(3) and (4)

Rule 131(1)

Rule 132(1)

Rule 133(1)

Rule 135(1) and (3)

Rule 136(2) and (3)

Rule 137(2) and (3)

Rule 139(2)

Rule 140

Rule 141

Rule 142

Rule 144(1)

Rule 145(1)

Rule 146(1)

Rule 147(5), (6) and (7)

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

No of 2010