

NATIONAL ELECTRICITY (RETAIL CONNECTION) AMENDMENT RULES 2010

The electricity connection framework for retail customers and embedded generators set out in these amending Rules will be supported by amendments to the National Electricity Law (NEL). The amendments to the NEL do not form part of this Exposure Draft.

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1 Citation

These Rules may be cited as the *National Electricity (Retail Connection) Amendment Rules 2010*.

2 Rules amended

These Rules amend the *National Electricity Rules*.

3 Insertion of Chapter 5A

The following Chapter is inserted after Chapter 5:

Chapter 5A Electricity connection for retail customers and embedded generators

Part A Preliminary

5A.A.1 Definitions

In this Chapter:

basic connection service means the service of providing a connection between a distribution network and a customer's premises in the following circumstances:

- (a) either:
- (1) the customer is typical of a substantial class of customers who have sought, or are likely to seek, the service; or
 - (2) the customer is, or proposes to become, a micro-embedded generator; and
- (b) the provision of the service involves minimal or no extension to, or augmentation of, the distribution network.

business customer – see section 102(1) of the NERL.

connection means a physical link between a distribution system and 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 applicant means a customer or non-registered embedded generator by or on whose behalf a connection application is made.

connection assets means the components of a distribution system which are used to provide connection services.

connection charge means a charge made by a distributor for a connection service.

connection charge guidelines – see rule 5A.E.3.

connection charge principles – see rule 5A.E.1.

connection contract means a contract formed by the making and acceptance of an offer under this Chapter.

connection offer means an offer by a distributor to enter into a connection contract with a customer or a non-registered embedded generator.

connection service means either or both of the following:

- (a) a service for the provision of a new connection for premises;
- (b) a service for the provision of a connection alteration for premises.

contestable – a service is contestable if the laws of the participating jurisdiction in which the service is to be provided permit the service to be provided by more than one supplier as a contestable service or on a competitive basis.

customer means a person who purchases, or proposes to purchase, electricity from a retailer for supply to premises and includes a micro embedded generator.

customer connection contract – see section 303 of the NERL.

dedicated connection assets means connection assets that are installed solely for the purposes of a particular connection.

distributor means a *Distribution Network Service Provider* and includes a nominated distributor.

embedded generating unit means a generating unit connected within a distribution network but without direct connection to a transmission network.

embedded generator means a person (other than a Registered Participant) that owns, controls or operates an embedded generating unit.

energy laws includes:

- (a) national energy legislation; and
- (b) jurisdictional energy legislation; and
- (c) these Rules and rules under national energy legislation.

large customer means a business customer that consumes electricity at business premises at or above the upper consumption threshold.

micro EG connection means a connection between a micro embedded generating unit and a distribution network of the kind contemplated by Australian Standard AS 4777 (Grid connection of energy systems via inverters).

micro embedded generator means a customer who operates, or proposes to operate, an embedded generating unit for which a micro EG connection is appropriate.

NERL means the National Energy Retail Law.

new connection means a connection established or to be established, in accordance with this Chapter and applicable energy laws, where there is no existing connection.

nominated distributor – see section 112 of the NERL.

non-registered embedded generator means an embedded generator that is neither a micro embedded generator nor a Registered Participant.

retailer means a person that holds a retailer authorisation under Part 5 of the NERL.

small customer – see section 105(2) of the NERL.

standard connection service means a connection service (other than a basic connection service) approved by the AER as a standard connection service.

supply service means a service (other than a connection service) relating to the ongoing supply of electricity.

upper consumption threshold means the level of consumption fixed as the upper consumption threshold under the NERL.

5A.A.2 Application of this Chapter

This Chapter does not apply to, or in relation to, a connection applicant that is:

- (1) a Registered Participant; or
- (2) a person that intends to become a Registered Participant.

Part B Standardised offers to provide basic and standard connection services

Division 1 Basic connection services

5A.B.1 Classes of basic connection services

Basic connection services are of 2 classes:

- (a) basic connection services for customers who are not micro-embedded generators; and
- (b) basic connection services for customers who are micro-embedded generators (***basic micro EG connection services***).

5A.B.2 Standing offer for basic connection services

- (a) A distributor must submit for the AER's approval, for each class of basic connection services, a proposed standing offer to provide basic connection services of the relevant class on specified terms and conditions.
- (b) The terms and conditions of the standing offer must cover:
 - (1) a description of the connection (and the connection assets of which it is to be comprised) including a statement of its maximum capacity; and
 - (2) the time within which the work is to be commenced and a target date for its completion; and
 - (3) the qualifications required for carrying out the work, or particular aspects of the work (including reference to the jurisdictional or other legislation and statutory instruments under which the qualifications are required); and
 - (4) the safety and technical requirements (including reference to the jurisdictional or other legislation and statutory instruments under which the requirements are imposed) to be complied with by the distributor or the customer (or both); and
 - (5) details of the connection charges (or the basis on which they will be calculated) including details of the following:
 - (i) standard connection charges for dedicated connection assets;

- (ii) meter type and cost;
 - (iii) the cost of any necessary system extension;
 - (iv) the cost of any necessary system augmentation;
 - (v) the costs of minor variation from the standard specifications;
 - (vi) any other incidental costs; and
- (6) the basis on which connection charges are to be paid by the customer; and
- (7) if the service is a basic micro EG connection service, the particular requirements with regard to the export of electricity into the distribution system including:
- (i) the special requirements for metering and other equipment for the export of electricity; and
 - (ii) the required qualification for installers of relevant equipment (including reference to the jurisdictional or other legislation and statutory instruments under which the qualifications are required); and
 - (iii) the special safety and technical requirements (including reference to the jurisdictional or other legislation and statutory instruments under which they are imposed) to be complied with by the distributor or the customer (or both).

5A.B.3 Approval of terms and conditions of standing offer to provide basic connection services

- (a) The AER may approve a proposed standing offer to provide basic connection services of a particular class on specified terms and conditions if satisfied that:
- (1) the services are likely to be sought by a significant number of customers or by micro-embedded generators (as the case requires); and
 - (2) the connection charges are consistent with the connection charge principles and the connection charge guidelines; and
 - (3) the terms and conditions are fair and reasonable; and
 - (4) the terms and conditions comply with applicable requirements of the energy laws.

- (b) In deciding whether to approve an offer to provide basic connection services on specified terms and conditions, the AER must have regard to:
- (1) the national electricity objective; and
 - (2) the basis on which the distributor has provided the relevant services in the past; and
 - (3) the geographical characteristics of the area served by the relevant distribution network.

An amendment is proposed to the definition of ***AER economic regulatory function or power*** in the NEL to include the exercise of functions under this new Chapter. In that event there would be no need for paragraph (b)(1) above.

- (c) If the AER does not approve a proposed standing offer to provide basic connection services of a particular class on specified terms and conditions:
- (1) the AER must give the distributor written reasons for its decision; and
 - (2) the distributor must re-submit the proposed terms and conditions with appropriate amendments as soon as reasonably practicable.
- (d) The AER must deal expeditiously with a proposed standing offer to provide basic connection services.

Division 2 Standard connection services

5A.B.4 Standard connection services

- (a) A distributor may submit for the AER's approval a proposed standing offer to provide standard connection services on specified terms and conditions.
- (b) Different sets of terms and conditions may be submitted under this rule for different classes of connection services or different classes of customer or non-registered embedded generator.
- (c) The terms and conditions must cover:
- (1) a description of the connection (and the connection assets of which it is to be comprised) including a statement of its maximum capacity; and

- (2) the time within which the work is to be commenced and a target date for its completion; and
- (3) the qualifications required for carrying out the work, or particular aspects of the work (including reference to the jurisdictional or other legislation and statutory instruments under which the qualifications are required); and
- (4) the safety and technical requirements (including reference to the jurisdictional or other legislation and statutory instruments under which the requirements are imposed) to be complied with by the distributor or the customer/non-registered embedded generator (or both); and
- (5) details of the connection charges (or the basis on which they will be calculated) including details of the following:
 - (i) standard connection charges for dedicated connection assets;
 - (ii) the cost of any necessary system extension;
 - (iii) the cost of any necessary system augmentation;
 - (iv) the costs of minor variation from the standard specifications; and
 - (v) any other incidental costs; and
- (6) the basis on which connection charges are to be paid by the customer or non-registered embedded generator; and
- (7) for a non-registered embedded generator – any other matters required to conform with the minimum content requirements for connection contracts set out in the Schedule (including – if relevant – requirements for supply services).

5A.B.5 Approval of standing offer to provide standard connection services

- (a) The AER may approve a proposed standing offer to provide a particular class of standard connection services on specified terms and conditions if satisfied:
 - (1) the terms and conditions are fair and reasonable; and
 - (2) the connection charges are consistent with the connection charge principles and the connection charge guidelines; and
 - (3) the terms and conditions comply with applicable requirements

of the energy laws.

- (b) In deciding whether to approve the proposed standing offer, the AER must have regard to the national electricity objective.

An amendment is proposed to the definition of ***AER economic regulatory function or power*** in the NEL to include the exercise of functions under this new Chapter. In that event there would be no need for paragraph (b) above.

- (c) If the AER does not approve a proposed standing offer to provide standard connection services on specified terms and conditions:
- (1) the AER must give the distributor written reasons for its decision; and
 - (2) the distributor may re-submit the proposed terms and conditions with appropriate amendments.
- (d) The AER must deal expeditiously with a proposed standing offer to provide standard connection services.

Division 3 Miscellaneous

5A.B.6 Amendment etc of standing offer

- (a) A distributor may submit, for the AER's approval, a proposal:
- (1) for the amendment or substitution of a standing offer to provide basic connection services; or
 - (2) for the amendment, substitution or revocation of a standing offer to provide standard connection services.
- (b) In deciding whether to approve a proposal submitted for its approval under this rule, the AER must, so far as relevant, apply the same principles and have regard to the same matters as are relevant to the approval of a standing offer to provide basic connection services or standard connection services.
- (c) If the AER does not approve a proposal submitted under paragraph (a):
- (1) the AER must give the distributor written reasons for its decision; and
 - (2) the distributor may re-submit the proposal with appropriate amendments.
- (d) The amendment, substitution or revocation of a standing offer does not affect the validity or effect of:

- (1) an offer made before the amendment, substitution or revocation takes effect; or
 - (2) a connection contract formed on the basis of such an offer.
- (e) The AER must deal expeditiously with a proposal for the amendment, substitution or revocation of a standing offer.

5A.B.7 Publication of standing offers

A distributor must publish, on its website:

- (1) each of its approved standing offers to provide basic connection services or standard connection services; and
- (2) the terms and conditions of each related connection contract.

Part C Negotiated connection

5A.C.1 Negotiation of connection

- (a) A connection applicant and a distributor may negotiate a connection contract (a ***negotiated connection contract***):
- (1) where the connection service sought by the connection applicant is neither a basic connection service nor a standard connection service; or
 - (2) where the connection service sought by the connection applicant is a basic connection service or a standard connection service but the connection applicant elects to negotiate the terms and conditions on which the connection service is to be provided.
- (b) The negotiations may, if the connection applicant elects, extend to supply services available from the distributor.

5A.C.2 Process of negotiation

- (a) A distributor and a connection applicant for a negotiated connection service must negotiate in accordance with the negotiation framework set out in rule 5A.C.3.
- (b) A distributor must, within 20 business days after receiving an application for a negotiated connection service, notify the connection applicant of any information (in addition to the information in the application) the distributor requires in order to make a connection offer.

5A.C.3 Negotiation framework

(a) The following rules govern negotiations between a distributor and a connection applicant:

- (1) each party must negotiate in good faith;
- (2) each party must provide the other with information the other reasonably requires in order to negotiate on an informed basis;

Note

The information might (for example) include information about:

- *possible connection charges and other costs;*
- *technical and safety requirements;*
- *the types of connection that are technically feasible;*
- *estimates of average and maximum demand for electricity to be supplied through the connection;*
- *network capacity at the proposed connection point;*
- *possible strategies to reduce the cost of the connection.*

- (3) the distributor must, as soon as reasonably practicable, provide the connection applicant with the following:
 - (i) an estimate of the amount to be charged by the distributor for assessment of the application and the making of a negotiated connection offer; and
 - (ii) an estimate of connection charges; and
 - (iii) a statement of the basis on which connection charges are calculated; and
 - (iv) an estimate of any applicable charges for supply services and a statement of the basis of their calculation;
- (4) the distributor may consult with other users of the distribution network who may be adversely affected by the proposed new connection or connection alteration;
- (5) in assessing the application, the distributor must determine:
 - (i) the technical requirements for a proposed new connection or connection alteration; and
 - (ii) the extent and costs of any necessary augmentation or extension of the distribution system; and
 - (iii) any consequent change in network service charges; and

- (iv) any possible material effect of the proposed connection or connection alteration on the network power transfer capability of the network to which the connection or connection alteration is proposed and any other network that might be affected by the proposed connection or connection alteration;
- (6) the distributor must make reasonable endeavours to make a connection offer that complies with the connection applicant's reasonable requirements.

Example

Reasonable requirements as to the location of the proposed connection point or the level and standard of the network's power transfer capability.

- (b) Each party to the negotiations must maintain the confidentiality of confidential information disclosed by the other party in the course of the negotiations unless disclosure of the information is authorised:
 - (1) by the party to whom the duty of confidentiality is owed; or
 - (2) under:
 - (i) the Law or the Rules; or
 - (ii) any other law.

5A.C.4 Fee to cover cost of negotiation

- (a) A distributor may charge a connection applicant for a negotiated connection service a reasonable fee to cover expenses directly and reasonably incurred by the distributor in assessing the applicant's application and making a negotiated connection offer.
- (b) A fee charged under paragraph (a) is recoverable as a debt (whether or not the connection applicant accepts the distributor's offer).

Part D Application for connection service

Division 1 Information

5A.D.1 Publication of information

A distributor must publish on its website the following:

- (a) an application form for a new connection or a connection alteration; and

- (b) a description of how an application for a new connection or a connection alteration is to be made (including a statement of the information required for the application); and
- (c) a description of the distributor's basic connection service and standard connection services and the classes of connection applicant to which they apply; and
- (d) an explanation of the connection applicant's right to negotiate with the distributor for a negotiated connection and a description of the negotiation process; and
- (e) the requirements for an expedited connection; and
- (f) the basis for calculation of connection charges.

Division 2 Preliminary enquiry

5A.D.2 Preliminary enquiry

- (a) A distributor must, within 5 business days after receiving an enquiry about a connection service (or some other period agreed between the distributor and the enquirer), provide the enquirer with the information required to make an informed application.
- (b) The information must include:
 - (1) a description of the distributor's basic and standard connection services and the terms and conditions of the approved standing offers to provide such services (including possible costs); and
 - (2) the process and information required for submission of a connection application including an application for an expedited connection; and
 - (3) a statement of a connection applicant's right to negotiate the terms of a connection contract and a description of the relevant process (including possible costs); and
 - (4) an indication of whether any aspects of the proposed connection are likely to be contestable; and
 - (5) any additional information required by the enquirer.
- (c) A distributor that publishes any of the above information on its website may comply with its obligation to disclose information under this rule by referring the enquirer to the relevant part of the website.

Exception:

If the enquirer asks for a written reply to the enquiry or asks for specific advice about the enquirer's particular situation, the distributor must reply to the enquiry in writing.

- (d) If an enquiry is made to a distributor about a connection within the area of another distributor, the distributor must inform the enquirer of the identity, and contact details, of the responsible distributor.

Division 3 Applications

5A.D.3 Application process

- (a) An application for a connection service must be in the appropriate form determined by the distributor.
- (b) An application for a connection service may be made by:
 - (1) a customer for whom the connection service is sought; or
 - (2) a non-registered embedded generator; or
 - (3) a retailer or other person acting on behalf of a customer or non-registered embedded generator.
- (c) If an application for a connection service has been made in error to the wrong distributor, that distributor must inform the connection applicant of the identity, and contact details, of the responsible distributor.
- (d) If an application is incomplete in a material respect, the distributor must advise the applicant of the deficiency and may require the connection applicant to complete the application and re-submit it.
- (e) The distributor must, within 10 business days after receipt of an application for a connection service (or some other period agreed between the distributor and the connection applicant):
 - (1) advise the connection applicant whether the proposed connection service is a basic connection service, a standard connection service or neither; and
 - (2) if;
 - (i) the connection service is neither a basic connection service nor a standard connection service; or
 - (ii) the connection applicant elects to have a negotiated connection service even though the proposed

connection service is a basic or standard connection service,

advise the connection applicant of the negotiated connection process and of possible costs and expenses related to the negotiations.

5A.D.4 Site inspection

If a distributor reasonably needs to make a site inspection in order to determine whether a service sought by a connection applicant is basic connection service, a standard connection service or a negotiated connection service, the distributor may charge its reasonable expenses to the connection applicant and recover those expenses as a debt.

Part E Connection charges

5A.E.1 Connection charge principles

(a) In determining connection charges, a distributor must apply the following principles (***connection charge principles***):

- (1) a large customer or non-registered embedded generator must:
 - (i) make an appropriate capital contribution towards the cost of an extension to, or augmentation of, the network necessary to make the connection; and
 - (ii) completely indemnify the distributor for the cost of dedicated connection assets.
- (2) a small customer or micro embedded generator must:
 - (i) make an appropriate capital contribution towards the cost of an extension to the network necessary to make the connection; and
 - (ii) completely indemnify the distributor for the cost of dedicated connection assets;

but the costs of augmentation incurred by the distributor are to be recovered through Distribution Use of System (DUOS) charges.

(b) If:

- (1) a connection asset ceases, within 7 years after its construction or installation, to be dedicated to the exclusive use of a

particular customer or non-registered embedded generator;
and

- (2) the customer or non-registered embedded generator is entitled, in accordance with the connection charge guidelines, to a refund of connection charges exceeding a threshold determined by the AER for the purposes of this paragraph;

the distributor must make the refund, and may recover the amount of the refund, by way of connection charge, from the new users of the asset.

- (c) For the purposes of paragraph (b), a person is taken to be a new user of a connection asset if the asset comes to be used to provide a connection to that person's premises.

5A.E.2 Itemised statement of connection charges

An offer to provide a connection service must be accompanied by a schedule containing an itemised statement of connection costs including (so far as relevant) the following:

- (a) standard connection charges;
- (b) meter type and cost;
- (c) cost of system extension;
- (d) details of upstream augmentation required to provide the connection service and associated cost;
- (e) any other incidental costs and the basis of their calculation including, if relevant, costs of minor deviation from the standard specification for a basic connection service or a standard connection service (as the case may require).

5A.E.3 Connection charge guidelines

- (a) The AER must develop and publish guidelines (***connection charge guidelines***) for the determination of connection charges and refunds of connection charges.
- (b) The purpose of the guidelines is to ensure that connection charges are fair, taking into account the distributor's reasonable costs of providing the connection services and quantifiable benefits to the distributor arising from the relevant new connection or connection alteration.
- (c) The guidelines:

- (1) must describe the method for determining charges for connection assets; and
 - (2) must describe the method for determining prices for standard connection assets in cases where:
 - (i) the customer is a small customer; and
 - (ii) there is inadequate market competition to ensure price contestability; and
 - (3) may establish principles for defining the connection point; and
 - (4) must describe the method for calculating the augmentation component of a connection charge for large customers and non-registered embedded generators; and
 - (5) must describe the treatment of extension assets; and
 - (6) must describe the method for calculating:
 - (i) the amount of a refund of connection asset charges when a new customer or non-registered embedded generator connects, within 7 years after the connection was established, to an extension asset previously dedicated to the exclusive use of the customer or non-registered embedded generator who paid the connection asset charges; and
 - (ii) the threshold below which the refund is not payable; and
 - (7) must describe the treatment of augmentation assets.
- (d) In developing guidelines dealing with the method for calculating the augmentation component of a connection charge for large customers and non-registered embedded generators, the AER must have regard to:
- (1) historical and geographical differences between networks; and
 - (2) cost reflectivity and the need to provide a competitively neutral environment where contestability exists.
- (e) In developing guidelines dealing with the method for calculating the amount of a refund of connection charges payable when a previously dedicated extension asset becomes a shared asset, the AER must have regard to:
- (1) the distributor's obligation to make the refund; and

- (2) future projections of network expansion and usage and any consequent effect on the distributor's capacity to finance the acquisition of augmentation assets out of increased revenue; and
 - (3) the fact that the distributor's obligation to make the refund will expire after 7 years.
- (f) In developing guidelines under this rule, the AER must act in accordance with the *distribution consultation procedures*.

Part F Formation and integration of connection contracts

Division 1 Offer and acceptance – basic and standard connection services

5A.F.1 Distributor's response to application

- (a) If the connection service sought by a connection applicant is a basic connection service or a standard connection service (and the applicant does not elect to treat the service as a negotiated connection service), the distributor must, within 10 business days after receiving an application for the service, offer to provide the connection service for the applicant.
- (b) The offer must be in accordance with the relevant standing offer and must include:
 - (1) the date of the offer; and
 - (2) details of the connection service to be provided; and
 - (3) a statement of the connection charges payable by the connection applicant.

5A.F.2 Acceptance of offer

- (a) An offer to provide a basic or standard connection service remains open for acceptance for 45 business days from the date of the offer and, if not accepted within that period, lapses unless the period for acceptance is extended by agreement between the connection applicant and the distributor.
- (b) However, if:
 - (1) a connection applicant for a basic or standard connection service elects in the connection application for an expedited

connection and indicates that an offer in terms of the appropriate standing offer would be acceptable to the applicant; and

- (2) the distributor makes an offer in terms of the standing connection offer;

the connection applicant is taken to have accepted the offer on the date of the offer.

- (c) If a connection applicant applies for an expedited connection but the distributor does not agree that an offer in terms of any of the standing offers is appropriate, the distributor must notify the connection applicant accordingly and draw the applicant's attention to the provisions of these Rules dealing with negotiated connection.

Division 2 Offer and acceptance – negotiated connection

5A.F.3 Negotiated connection offer

- (a) A distributor must use its best endeavours to make a negotiated connection offer to the connection applicant within 65 business days after the date of the application for connection (but the time taken by the applicant to provide information reasonably sought by the distributor will not be counted).
- (b) A negotiated connection offer:
 - (1) must be in the form of an offer to enter into a contract in specified terms; and
 - (2) must comply with the minimum requirements set out in the Schedule.
- (c) If the connection applicant elected to extend the negotiations to supply services, the proposed contract must contain terms and conditions relating to the supply services.
- (d) A negotiated connection offer must not include a connection charge that is inconsistent with the connection charge principles or the connection charge guidelines.
- (e) A negotiated connection offer remains open for acceptance for 20 business days from the date of the offer and then lapses unless the period for acceptance is extended by agreement between the distributor and the connection applicant.

Division 3 Formation of contract

5A.F.4 Acceptance of distributor's offer

- (a) If a distributor's offer to provide a connection service is accepted, the terms and conditions of the offer:
 - (1) become terms and conditions of a contract formed between the distributor and the connection applicant; and
 - (2) are enforceable accordingly.
- (b) If the connection applicant:
 - (1) is a customer; and
 - (2) did not elect to include supply services within the scope of negotiations leading to the formation of a negotiated connection contract,

the terms and conditions are integrated with, and form part of, the relevant customer connection contract formed under the NERL.
- (c) The distributor must, at the request of a connection applicant, provide a copy of:
 - (1) the contract formed under paragraph (a); or
 - (2) if that contract has been integrated with, and forms part of, a customer connection contract arising under the NERL – the integrated contract.

Division 4 Contractual performance

5A.F.5 Carrying out connection work

- (a) A distributor must use its best endeavours to ensure that connection work is carried out within the applicable time limits fixed by the relevant provisions of the connection contract.
- (b) However, a distributor is not obliged to commence or continue with connection work if the connection applicant fails to comply with conditions that are to be complied with by the connection applicant.

Examples

The connection applicant fails to pay connection charges.

The connection applicant fails to comply with technical or safety requirements.

The connection applicant fails to complete work that is to be carried out on the applicant's premises.

The connection applicant fails to comply with the distributor's reasonable request to allow the distributor safe and unhindered access to the applicant's premises.

SCHEDULE – Minimum content requirements for connection contract

Part A Connection offer not involving embedded generation

- (a) A connection offer must contain:
- (1) a provision for commencement of the connection contract to be formed by acceptance of the offer; and
 - (2) details of the connection point, the maximum capacity of the connection, and the customer installation required at the connection point; and
 - (3) details of the connection assets and additional equipment to be installed on the premises and responsibility for undertaking the work; and
 - (4) details of any network extension or augmentation required for the purposes of the connection; and
 - (5) an undertaking to complete the work required to establish the connection within a specified time frame; and
 - (6) a requirement that the customer have appropriate metering installed; and
 - (7) technical and safety obligations to be met by the customer relating to the installation; and
 - (8) the customer's obligation to allow access to the premises by the distributor's agents, contractors and employees; and
 - (9) the customer's obligation to accommodate on its premises, and protect from harm, any equipment necessary for the connection; and
 - (10) details of the customer's monetary obligations including billing arrangements and any security to be provided by the customer; and
 - (11) details of the distributor's monetary obligations to the customer; and
 - (12) a provision requiring the distributor to provide information about the connection to the customer; and
 - (13) provision for amendment of the connection contract by agreement between the distributor and the customer.

- (b) A connection offer that relates to supply services must also deal with:
- (1) the distributor's power to interrupt or reduce the supply of electricity to the connection point; and
 - (2) warranties and limitations on the distributor's liability; and
 - (3) disconnection and reconnection; and
 - (4) reporting and correction of faults; and
 - (5) dispute resolution; and
 - (6) ongoing customer obligations; and
 - (7) termination of the connection contract.

Part B Connection offer involving embedded generation

- (a) A connection offer to a person who operates, or proposes to operate, an embedded generating unit (the ***embedded generator***) must contain:
- (1) a provision for commencement of the connection contract to be formed by acceptance of the offer; and
 - (2) details of the connection point, the maximum capacity of the connection to import and export electricity, and the embedded generator's installation required at the connection point; and
 - (3) details of the connection assets and additional equipment to be installed on the premises and responsibility for undertaking the work; and
 - (4) details of any network extension or augmentation required for the purposes of the connection; and
 - (5) an undertaking to complete the work required to establish the connection within a specified time frame; and
 - (6) a requirement that the embedded generator have appropriate metering installed; and
 - (7) technical and safety obligations to be met by the embedded generator relating to the installation; and
 - (8) the embedded generator's obligation to allow access to the premises by the distributor's agents, contractors and employees; and

- (9) the embedded generator's obligation to accommodate on its premises, and protect from harm, any equipment necessary for the connection; and
 - (10) details of the embedded generator's monetary obligations including billing arrangements and any security to be provided by the embedded generator; and
 - (11) details of the distributor's monetary obligations to the embedded generator; and
 - (12) a provision requiring the distributor to provide information about the connection to the embedded generator; and
 - (13) provision for amendment of the connection contract by agreement between the distributor and the embedded generator.
- (b) A connection contract that relates to supply services must also deal with:
- (1) the distributor's power to interrupt or reduce the supply of electricity to the connection point; and
 - (2) warranties and limitations on the distributor's liability; and
 - (3) disconnection and reconnection; and
 - (4) reporting and correction of faults; and
 - (5) dispute resolution; and
 - (6) ongoing obligations of the distributor and the customer/embedded generator; and
 - (7) termination of the connection contract.

NATIONAL GAS (RETAIL CONNECTION) AMENDMENT RULES 2010

The gas connection framework for retail customers set out in these amending Rules will be supported by amendments to the National Gas Law (NGL). The amendments to the NGL do not form part of this Exposure Draft.

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1 Citation

These Rules may be cited as the *National Gas (Retail Connection) Amendment Rules 2010*.

2 Rules amended

These Rules amend the *National Gas Rules*.

3 Insertion of Part 12A

The following Part is inserted after Part 12:

Part 12A Gas connection for retail customers

Division 1 Definitions

119A Definitions

In this Part:

basic connection service means the service of providing a connection between a distribution pipeline and a customer's premises where the provision of the service involves minimal or no extension to, or augmentation of, the distribution pipeline.

connection means a physical link between a distribution pipeline and a customer's premises to allow the flow of natural gas.

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

connection applicant means an applicant for a connection service.

connection assets means the components of a distribution pipeline which are used to provide connection services.

connection charge means a charge imposed by a distributor for a connection service.

connection charges criteria – see rule 119M.

connection contract means a contract formed by the making and acceptance of an offer under this Part.

connection offer means an offer by a distributor to enter into a connection contract with a customer.

connection service means either or both of the following:

- (a) a service for the provision of a new connection for premises;
- (b) a service for the provision of a connection alteration for premises.

contestable – a service is contestable if the laws of the participating jurisdiction in which the service is to be provided permit the service to be provided by more than one supplier as a contestable service or on a competitive basis.

customer means a person who purchases, or proposes to purchase, natural gas from a retailer.

customer connection contract – see section 303 of the NERL.

dedicated connection assets means connection assets that are installed solely for the purposes of a particular connection.

distribution pipeline means:

- (a) a covered pipeline classified under the Law as a distribution pipeline; or
- (b) an uncovered pipeline for which an entity has been nominated to provide customer connection services under section 112 of the NERL.

distributor means:

- (a) for a distribution pipeline that is a covered pipeline – a service provider within the meaning of the Law who owns, operates or controls the pipeline; or
- (b) for a distribution pipeline that is an uncovered pipeline – an entity (the nominated distributor) nominated under section 112 of the NERL to provide customer connection services in relation to the pipeline.

energy laws includes:

- (a) national energy legislation; and
- (b) jurisdictional energy legislation; and
- (c) these Rules and rules under national energy legislation.

NERL means the National Energy Retail Law.

new connection means a connection established or to be established, in accordance with this Part and applicable energy laws, where there is no existing connection.

nominated distributor – see section 112 of the NERL.

retailer means a person that holds a retailer authorisation under Part 5 of the NERL.

standard connection service means a connection service (other than a basic connection service) approved by the AER as a standard connection service.

supply service means a service (other than a connection service) relating to the ongoing supply of natural gas.

Division 2 Standardised offers to provide basic and standard connection services

Subdivision 1 Basic connection service

119B Obligation to have standing offer to provide basic connection service

A distributor must have a standing offer, as approved by the AER, to provide a basic connection service to customers.

119C Standing offer for basic connection service

- (1) A distributor must submit for the AER's approval a proposed standing offer to provide a basic connection service on specified terms and conditions.
- (2) The terms and conditions of the standing offer must cover:
 - (a) a description of the connection;
 - (b) the time within which the work is to be commenced and a target date for its completion;
 - (c) details of the metering equipment to be installed;
 - (d) details of the connection charges (or the basis on which they will be calculated) including details of the following:
 - (i) standard charges for dedicated connection assets;
 - (ii) charges to defray the cost of minor deviation from the standard specifications for dedicated connection assets;
 - (iii) charges to defray the cost of any other connection assets, including any extension to, or augmentation of, the distribution pipeline necessary to provide the connection service;
 - (iv) any other charges and the costs to which they are related;
 - (e) the basis on which connection charges are to be paid.
- (3) The distributor must submit to the AER, with its proposed standing offer:

- (a) a declaration that the distributor considers its proposed connection charges to be consistent with the connection charges criteria;
- (b) details of the basis on which the distributor has applied the connection charges criteria, including details of any assumption made for the purposes of applying those criteria.

119D Approval of terms and conditions of standing offer to provide basic connection service

- (1) The AER may approve a proposed standing offer to provide a basic connection service on specified terms and conditions if satisfied that:
 - (a) the service is likely to be sought by a significant number of customers; and
 - (b) the connection charges are consistent with the connection charges criteria; and
 - (c) the terms and conditions are fair and reasonable; and
 - (d) the terms and conditions comply with applicable requirements of the energy laws.
- (2) In deciding whether to approve an offer to provide a basic connection service on specified terms and conditions, the AER must have regard to:
 - (a) the national gas objective; and
 - (b) the basis on which the distributor has provided the relevant service in the past; and
 - (c) the geographical characteristics of the area served by the relevant distribution pipeline.

An amendment is proposed to the definition of ***AER economic regulatory function or power*** in the NGL to include the exercise of functions under this new Part. In that event there would be no need for subrule (2)(a) above.

- (3) If the AER does not approve a proposed standing offer to provide a basic connection service on specified terms and conditions:
 - (a) the AER must give the distributor written reasons for its decision; and
 - (b) the distributor must re-submit the proposed terms and conditions with appropriate amendments as soon as

reasonably practicable.

- (4) The AER must deal expeditiously with a proposed standing offer to provide a basic connection service.

Subdivision 2 Standard connection services

119E Standard connection services

- (1) A distributor may submit for the AER's approval a proposed standing offer to provide standard connection services on specified terms and conditions.
- (2) Different sets of terms and conditions may be submitted under this rule for different classes of connection services or different classes of customer.
- (3) The terms and conditions must cover:
 - (a) the technical requirements for providing the service; and
 - (b) the costs of providing the service or the basis on which the costs will be calculated; and
 - (c) details of the connection charges (or the basis on which they will be calculated).
- (4) The distributor must submit to the AER, with its proposed standing offer:
 - (a) a declaration that the distributor considers its proposed connection charges to be consistent with the connection charges criteria; and
 - (b) details of the basis on which the distributor has applied the connection charges criteria, including details of any assumption made for the purposes of applying those criteria.

119F Approval of standing offer to provide standard connection services

- (1) The AER may approve a proposed standing offer to provide standard connection services on specified terms and conditions if satisfied:
 - (a) the connection charges are consistent with the connection charges criteria; and

- (b) the terms and conditions are fair and reasonable; and
 - (c) the terms and conditions comply with applicable requirements of the energy laws.
- (2) In deciding whether to approve a proposed standing offer to provide standard connection services on specified terms and conditions, the AER must have regard to the national gas objective.

An amendment is proposed to the definition of ***AER economic regulatory function or power*** in the NGL to include the exercise of functions under this new Part. In that event there would be no need for subrule (2) above.

- (3) If the AER does not approve a proposed standing offer to provide standard connection services on specified terms and conditions:
- (a) the AER must give the distributor written reasons for its decision; and
 - (b) the distributor may re-submit the proposed terms and conditions with appropriate amendments.
- (4) The AER must deal expeditiously with a proposed standing offer to provide standard connection services.

Subdivision 3 Miscellaneous

119G Amendment etc of standing offer

- (1) A distributor may submit, for the AER's approval, a proposal:
- (a) for the amendment or substitution of a standing offer to provide a basic connection service; or
 - (b) for the amendment, substitution or revocation of a standing offer to provide standard connection services.
- (2) In deciding whether to approve a proposal submitted for its approval under this rule, the AER must, so far as relevant, apply the same principles and have regard to the same matters as are relevant to the approval of a standing offer to provide a basic connection service or standard connection services.
- (3) If the AER does not approve a proposal submitted under subrule (1):
- (a) the AER must give the distributor written reasons for its decision; and
 - (b) the distributor may re-submit the proposal with appropriate

amendments.

- (4) The amendment, substitution or revocation of a standing offer does not affect the validity or effect of:
 - (a) an offer made before the amendment, substitution or revocation takes effect; or
 - (b) a connection contract formed on the basis of such an offer.
- (5) The AER must deal expeditiously with a proposal for the amendment, substitution or revocation of a standing offer.

119H Publication of standing offers

A distributor must publish, on its website:

- (a) each of its approved standing offers to provide a basic connection service or a standard connection service; and
- (b) the terms and conditions of each related connection contract.

Division 3 Negotiated connection

119I Negotiation of connection

- (1) A connection applicant and a distributor may negotiate a connection contract (a ***negotiated connection contract***):
 - (a) where the connection service sought by the connection applicant is neither a basic connection service nor a standard connection service; or
 - (b) where the connection service sought by the connection applicant is a basic connection service or a standard connection service but the connection applicant elects to negotiate the terms and conditions on which the connection service is to be provided.
- (2) The negotiations may, if the connection applicant elects, extend to supply services available from the distributor.

119J Process of negotiation

- (1) A distributor and a connection applicant for a negotiated connection service must negotiate in accordance with the negotiation framework set out in rule 119K.
- (2) A distributor must, within 20 business days after receiving an application for a negotiated connection service, notify the

connection applicant of any information (in addition to the information in the application) the distributor requires in order to make a connection offer.

119K Negotiation framework

- (1) The following rules govern negotiations between the distributor and a connection applicant:
 - (a) each party must negotiate in good faith;
 - (b) each party must provide the other with information the other reasonably requires in order to negotiate on an informed basis;

Note

The information might (for example) include information about:

- *possible connection charges and other costs;*
 - *technical and safety requirements;*
 - *the types of connection that are technically feasible;*
 - *estimates of average and maximum demand for natural gas to be supplied through the connection;*
 - *the capacity of the distribution system at the proposed connection point;*
 - *possible strategies to reduce the cost of the connection.*
- (c) the distributor must, as soon as reasonably practicable, provide the connection applicant with the following:
 - (i) an estimate of the amount to be charged by the distributor for assessment of the application and the making of a negotiated connection offer; and
 - (ii) an estimate of connection charges; and
 - (iii) a statement of the basis on which connection charges are calculated (which must be consistent with the connection charges criteria); and
 - (iv) a statement of the assumptions made by the distributor in applying the connection charges criteria; and
 - (v) an estimate of any applicable charges for supply services and a statement of the basis of their calculation;
 - (d) in assessing the application, the distributor must determine:
 - (i) the technical requirements for the proposed new connection or connection alteration; and

- (ii) the extent and costs of any necessary augmentation or extension; and
 - (iii) any possible material effect of the proposed connection or connection alteration on the capacity of the distribution pipeline (and any other distribution pipeline that might be affected) to meet existing and future demand;
- (e) the distributor must make reasonable endeavours to make a connection offer that complies with the connection applicant's reasonable requirements.

Example

Reasonable requirements as to the location of the proposed connection point.

- (2) Each party to the negotiations must maintain the confidentiality of confidential information disclosed by the other party in the course of the negotiations unless disclosure of the information is authorised:
- (a) by the party to whom the duty of confidentiality is owed; or
 - (b) under:
 - (i) the Law or the Rules; or
 - (ii) any other law.

119L Fee to cover cost of negotiation

- (1) A distributor may charge a connection applicant for a negotiated connection service a reasonable fee to cover expenses directly and reasonably incurred by the distributor in assessing the connection applicant's application and making a negotiated connection offer.
- (2) A fee charged under subrule (1) is recoverable as a debt (whether or not the connection applicant accepts the distributor's offer).

Division 4 Connection charges

119M Connection charges criteria

- (1) Connection charges (or the method for calculating connection charges) for a particular connection service must be consistent with the following criteria (the **connection charges criteria**):
- (a) if the present value of the expected incremental revenue to be generated as a result of the distributor's capital expenditure for the relevant connection assets exceeds the present value of that capital expenditure, no connection charge may be

imposed; and

- (b) if paragraph (a) does not prevent the imposition of a connection charge, the connection charge must not exceed the amount by which the present value of the capital expenditure exceeds the present value of the expected incremental revenue.

(2) For the purpose of applying the connection charges criteria:

- (a) in determining the present value of expected incremental revenue, the requirements of rule 79(4) apply;
- (b) the relevant connection assets are taken to include any augmentation of the distribution pipeline required to accommodate the new connection or connection alteration;
- (c) the distributor must use assumptions about:
 - (i) the connection assets required; and
 - (ii) the discount rate; and
 - (iii) the expected life of the connection; and
 - (iv) the incremental cost of purchasing and installing the connection assets; and
 - (v) the expected gas consumption and the tariffs applicable to supply services relating to the connection; and
 - (vi) the expected incremental operating and maintenance costs,

that are consistent with relevant provisions of the distributor's applicable access arrangement.

119N Nature of connection charges

A connection charge paid to a distributor by or on behalf customer is taken to be a capital contribution for the purposes of rule 82.

119O Payment of connection charges

- (1) Connection charges payable in respect of connection service must be paid to the distributor by the customer's retailer unless:
 - (a) the retailer did not apply for the connection service under Division 5, Subdivision 3 and the distributor has notified the customer that the customer must pay the connection charge directly; or

- (b) the customer asks to pay the connection charge directly and the distributor agrees.
- (2) If the customer pays, or is required to pay, a connection charge under subrule (1), the distributor must not recover that charge from the customer's retailer.
- (3) The distributor must separately identify each connection charge on its statement or invoice to the retailer or the customer.

Note

Rule 213 of the National Energy Retail Rules requires the listing of connection charges that are passed through by a retailer to a customer in the customer's bill.

Division 5 Application for connection service

Subdivision 1 Information

119P Publication of information

A distributor must publish on its website the following:

- (a) an application form for a new connection or connection alteration; and
- (b) a description of how an application for a new connection or connection alteration is to be made (including a statement of the information required for a connection application); and
- (c) a description of the distributor's basic connection service and standard connection services and the classes of customer to which they apply; and
- (d) an explanation of the connection applicant's right to negotiate with the distributor for a negotiated connection service and a description of the negotiation process; and
- (e) the requirements for an expedited connection; and
- (f) the basis for calculating connection charges.

Subdivision 2 Preliminary enquiry

119Q Preliminary enquiry

- (1) A distributor must, within 5 business days after receiving an enquiry about a connection service (or some other period agreed between the distributor and the enquirer), provide the enquirer with the information required to make an informed application.

- (2) The information must include:
 - (i) a description of the distributor's basic and standard connection services and the terms and conditions of the approved standing offers to provide such services (including possible costs); and
 - (ii) the process and information required for submission of a connection application including an application for an expedited connection; and
 - (iii) a statement of a connection applicant's right to negotiate the terms of a connection contract and a description of the relevant process (including possible costs to the connection applicant); and
 - (iv) an indication of whether any aspects of the proposed connection are likely to be contestable; and
 - (v) any additional information required by the enquirer.
- (3) A distributor that publishes any of the above information on its website may comply with its obligation to disclose information under this rule by referring the enquirer to the relevant part of the website.

Exception:

If the enquirer asks for a written reply to the enquiry or asks for specific advice about the enquirer's particular situation, the distributor must reply to the enquiry in writing.

- (4) If an enquiry is made to a distributor about a connection within the area of another distributor, the distributor must inform the enquirer of the identity, and contact details, of the responsible distributor.

Subdivision 3 Applications

119R Application process

- (1) An application for a connection service must be in the appropriate form determined by the distributor.
- (2) An application for a connection service may be made by:
 - (a) a customer for whom the connection service is sought; or
 - (b) a retailer or other person acting on behalf of a customer.
- (3) If an application for a connection service is made in error to the wrong distributor, that distributor must inform the connection

applicant of the identity, and contact details, of the responsible distributor.

- (4) If an application is incomplete in a material respect, the distributor must advise the connection applicant of the deficiency and may require the applicant to complete the application and re-submit it.
- (5) The distributor must, within 10 business days after receipt of an application for a connection service (or some other period agreed between the distributor and the connection applicant):
 - (a) advise the connection applicant whether the proposed connection service is a basic connection service, a standard connection service or neither; and
 - (b) if:
 - (i) the connection service is neither a basic connection service nor a standard connection service; or
 - (ii) the connection applicant elects for a negotiated connection service even though the proposed connection service is a basic or standard connection service,

advise the connection applicant of the negotiated connection process and of possible costs and expenses related to the negotiations.

Division 6 Formation and integration of connection contracts

Subdivision 1 Offer and acceptance – basic and standard connection services

119S Distributor's response to application

- (1) If the connection service sought by a connection applicant is a basic connection service or a standard connection service (and the connection applicant does not elect to treat the service as a negotiated connection service), the distributor must, within 10 business days after receiving an application for the service, offer to provide the connection service for the connection applicant.
- (2) The offer must be in accordance with the relevant standing offer and must include:
 - (a) the date of the offer; and

- (b) details of the connection service to be provided; and
 - (c) a statement of the connection charges payable by the connection applicant.
- (3) If requested by the connection applicant, the distributor must include in its offer the following information about the basis for calculation of connection charges:
- (a) the distributor's assumptions about the future use of supply services by the relevant customer or group of customers supplied or to be supplied through the connection; and
 - (b) if a component of a connection charge relates to augmentation or extension of the distribution pipeline (other than dedicated connection assets) – the distributor's assumptions about the incremental increase or reduction in operating and maintenance costs.

119T Acceptance of offer

- (1) An offer to provide a basic or standard connection service remains open for acceptance for 45 business days from the date of the offer and, if not accepted within that period, lapses unless the period for acceptance is extended by agreement between the connection applicant and the distributor.
- (2) However, if:
- (a) a connection applicant for a basic or standard connection service elects in the connection application for an expedited connection and indicates that an offer in terms of the appropriate standing offer would be acceptable to the connection applicant; and
 - (b) the distributor makes an offer in terms of the standing connection offer;

the connection applicant is taken to have accepted the offer on the date of the offer.

- (3) If a connection applicant applies for an expedited connection but the distributor does not agree that an offer in terms of any of the standing offers is appropriate, the distributor must notify the connection applicant accordingly and draw the connection applicant's attention to the provisions of these Rules dealing with negotiated connection.

Subdivision 2 Offer and acceptance – negotiated connection

119U Negotiated connection offer

- (1) A distributor must use its best endeavours to make a negotiated connection offer to the connection applicant within 65 business days after the date of the application for a connection service (but the time taken by the connection applicant to provide information reasonably sought by the distributor will not be counted).
- (2) A negotiated connection offer must be in the form of an offer to enter into a contract containing:
 - (a) negotiated terms and conditions for the provision of the relevant connection service; and
 - (b) if the connection applicant elected to extend the scope of negotiations to cover supply services – negotiated terms and conditions for the provision of the relevant supply services.
- (3) A negotiated connection offer must not include a connection charge that is inconsistent with the connection charges criteria.
- (4) A negotiated connection offer remains open for acceptance for 20 business days from the date of the offer and then lapses unless the period for acceptance is extended by agreement between the distributor and the connection applicant.

Subdivision 3 Formation of contract

119V Acceptance of distributor's offer

- (1) If a distributor's offer to provide a connection service is accepted, the terms and conditions of the offer:
 - (a) become terms and conditions of a contract formed between the distributor and the customer; and
 - (b) are enforceable accordingly.
- (2) If the customer did not elect to include supply services within the scope of negotiations leading to the formation of a negotiated connection contract, the terms and conditions are integrated with, and form part of, the relevant customer connection contract formed under the NERL.
- (3) The distributor must, at the request of a connection applicant, provide a copy of:
 - (a) the contract formed under subrule (1); or

- (b) if that contract has been integrated with, and forms part of, a customer connection contract arising under the NERL – the integrated contract.

Subdivision 4 Contractual performance

119W Carrying out connection work

- (1) A distributor must use its best endeavours to ensure that connection work is carried out within the applicable time limits fixed by the relevant provisions of the connection contract.
- (2) However, a distributor is not obliged to commence or continue with connection work if the connection applicant fails to comply with conditions that are to be complied with by the connection applicant.

Examples

The connection applicant fails to pay connection charges.

The connection applicant fails to comply with technical or safety requirements.

The connection applicant fails to complete work that is to be carried out on the connection applicant's premises.

The connection applicant fails to comply with the distributor's reasonable request to allow the distributor safe and unhindered access to the connection applicant's premises.