

South Australia

National Electricity (South Australia) Variation Regulations 2005

under Part 4 of the *National Electricity (South Australia) Act 1996*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *National Electricity (South Australia) Variation Regulations 2005*.

2—Commencement

These regulations will come into operation on the day on which section 12 of the *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005* comes into operation.

3—Variation provisions

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

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

4—Substitution of regulations 3 to 12

Regulations 3 to 12 (inclusive)—delete the regulations and substitute:

3—Interpretation

In these regulations—

commencement date of the new National Electricity Law means the date of commencement of section 12 of the *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005*;

NECA means National Electricity Code Administrator Limited ACN073 942 775;

new National Electricity Law means the National Electricity Law as in force on or after the commencement date of the new National Electricity Law;

old National Electricity Law means the National Electricity Law as in force before the commencement date of the new National Electricity Law.

4—Jurisdictional regulator—Tasmania

For the purposes of paragraph (h) of the definition of *jurisdictional regulator* in section 2 of the new National Electricity Law, in relation to the State of Tasmania as a participating jurisdiction, the Regulator within the meaning of the *Electricity Supply Industry Act 1995* of Tasmania is a jurisdictional regulator of Tasmania.

5—Relevant participant

- (1) For the purposes of the definition of *relevant participant* in section 2 of the new National Electricity Law—
 - (a) a Registered participant is not a relevant participant to the extent that the Registered participant is acting in the capacity of a Metering Provider under the Rules; and
 - (b) an applicant within the meaning of clause 2.9.3 of the Rules is a relevant participant to the extent that the person would have been a Registered participant if the person had not been exempted under that clause from the requirement to register as a Generator or Network Service Provider; and
 - (c) a connection applicant who is not a Registered participant is a relevant participant but only for the purposes of clause 8.2 of the Rules.
- (2) Terms used in subregulation (1) that are defined in the Rules have the same respective meanings in that subregulation as in the Rules.

6—Civil penalty provisions

- (1) For the purposes of paragraph (c) of the definition of *civil penalty provision* in section 58 of the new National Electricity Law, the provisions of the Rules in Schedule 1 are civil penalty provisions.
- (2) For the purposes of the definition of *rebidding civil penalty provision* in section 58 of the new National Electricity Law, clause 3.8.22A of the Rules is a rebidding civil penalty provision.

7—Relevant Parts of Commercial Arbitration Act— Commonwealth and Tasmania

For the purposes of paragraph (f) of the definition of *relevant Parts of the Commercial Arbitration Act of this jurisdiction* in section 71(3) of the new National Electricity Law—

- (a) in relation to the Commonwealth as a participating jurisdiction—Parts 3, 4 and 5 of the *Commercial Arbitration Act 1986* of the Australian Capital Territory are prescribed as corresponding to Parts III, IV and V of the *Commercial Arbitration Act 1986* of South Australia; and
- (b) in relation to the State of Tasmania as a participating jurisdiction—Parts III, IV and V of the *Commercial Arbitration Act 1986* of Tasmania are prescribed as corresponding to Parts III, IV and V of the *Commercial Arbitration Act 1986* of South Australia.

8—Content of requests for Rule

- (1) For the purposes of section 92(1)(a) of the new National Electricity 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, including, if the request is for a derogation, a statement as to whether the derogation is a jurisdictional derogation or a participant derogation;
 - (c) a statement of the issue concerning the existing Rules that is to be addressed by the proposed Rule and an explanation of how the proposed Rule would address the issue;
 - (d) an explanation of how the proposed Rule would or would be likely to contribute to the achievement of the national electricity market objective.
- (2) A request under section 92(1) of the new National Electricity Law for the making of a Rule must be in writing.

5—Variation of regulation 13—System operations functions or powers

- (1) Regulation 13(1)—after "section 77A of the" insert:

old
- (2) Regulation 13(2)—delete subregulation (2) and substitute:
 - (2) For the purposes of section 119(7) of the new National Electricity Law, the following are prescribed as a system operations function or power:
 - (a) a function or power of NEMMCO under the Rules performed or exercised as an agent engaged, or delegate appointed, by NEMMCO under clause 4.3.3(a)(1) of the Rules;
 - (b) a function or power that NEMMCO could have performed or exercised under the Rules performed or exercised pursuant to a contractual arrangement with NEMMCO under clause 4.3.3(a)(2) of the Rules;
 - (c) the provision of information to NEMMCO in relation to the performance or exercise of a function or power referred to in paragraph (a) or (b);
 - (d) the provision of information to NEMMCO for the purposes of clause 3.13.3(f), (g), (i) or (n), 4.5.1(b) or (c), 4.6.1(a), 4.6.2 or 4.6.5(a) of the Rules;
 - (e) the provision of information to NEMMCO for the purposes of clause 3.11.2(b) or 4.3.4(d) of the Rules insofar as the compiling of the information involves analysis, judgements or calculations;

- (f) the development of procedures for the purposes of clause 4.10.1(b) of the Rules;
 - (g) a function under any of the following clauses of the Rules:
 - (i) clause 4.3.4(a), (b), (c) or (f);
 - (ii) clause 4.6.5(c);
 - (iii) clause 4.10.3(a);
 - (iv) clause 4.10.5(b);
 - (v) clause 4.11.2(a) or (d);
 - (h) the disconnection or reconnection of a facility as contemplated by the power system operating procedures defined in clause 4.10.1(a) of the Rules insofar as the disconnection or reconnection is performed by—
 - (i) a Transmission Network Service Provider; or
 - (ii) a Distribution Network Service Provider at the direction of a Transmission Network Service Provider;
 - (i) the disconnection of a Registered participant's facilities or market loads under clause 5.9.3(a)(1), (2) or (3) of the Rules;
 - (j) the reconnection of a Registered participant's facilities under clause 5.9.6(a) or (b) of the Rules;
 - (k) action taken as directed by NEMMCO under any of the following clauses of the Rules:
 - (i) clause 5.9.3;
 - (ii) clause 5.9.5;
 - (iii) clause 5.9.6;
 - (l) the provision and maintenance of communications systems between a communications interface at a power station and the control centre as required under clause S5.2.6.3 of Schedule 5.2 of the Rules;
 - (m) the provision and maintenance of equipment by means of which routine and emergency control telephone calls may be made as required under clause S5.2.6.3(a) of Schedule 5.2 of the Rules;
 - (n) the provision and maintenance of a telephone link or radio installation as required under clause S5.2.6.3(b) of Schedule 5.2 of the Rules.
- (3) Terms used in subregulation (1) that are defined in the Code have the same respective meanings in that subregulation as in the Code.
- (4) Terms used in subregulation (2) that are defined in the Rules have the same respective meanings in that subregulation as in the Rules.

6—Variation of regulation 14—Maximum civil monetary liabilities of NEMMCO or network service providers

- (1) Regulation 14(1)—after "section 77A(4)(c) of the" insert:
old National Electricity Law and section 119(3) of the new
- (2) Regulation 14(2)(e)—after "NECA" insert:
, or, after the commencement date of the new National Electricity Law, by the AER,
- (3) Regulation 14(3)—after the definition of *prescribed amount* insert:
prescribed day means 13 November 1999;
- (4) Regulation 14(3), definition of *prescribed 12 month period*—after paragraph (f) insert:
or
 - (g) the period of 12 months from the end of the period referred to in paragraph (f); or
 - (h) the period of 12 months from the end of the period referred to in paragraph (g);
- (5) Regulation 14(3), definition of *relevant event*—delete "6 years" wherever occurring and substitute in each case:
8 years
- (6) Regulation 14(3), definition of *relevant event*—after "under the" wherever occurring insert:
old
- (7) Regulation 14(3), definition of *relevant event*—after "Code" wherever occurring insert:
or the new National Electricity Law or the Rules

7—Substitution of Schedule

Schedule—delete the Schedule and substitute:

Schedule 1—Civil penalty provisions

Provisions of the Rules
clause 1.9
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clause 2.2.3(d)
clause 2.2.4(c)
clause 2.2.4(d)
clause 2.2.6(g)(1) - (2)
clause 2.2.6(g)(4)

Provisions of the Rules
clause 2.2.6(h)
clause 2.3.2(c)
clause 2.3.3(c)
clause 2.3.4(c)
clause 2.3.4(h)
clause 2.3.5(g)(1)
clause 2.3.5(g)(2)
clause 2.3.5(g)(4)
clause 2.3.5(h)
clause 2.5.3(e)(1) - (4)
clause 2.10.2(a)
clause 2.11.2(c)
clause 3.3.1(a) - (b)
clause 3.3.2(a) - (e)
clause 3.3.5
clause 3.3.6(a) - (b)
clause 3.3.7(b)
clause 3.3.13(a)
clause 3.3.16(a)
clause 3.3.18(a)
clause 3.6.3(b)(2) - (3)
clause 3.6.3(b1)
clause 3.6.3(f)(1)
clause 3.6.3(g)
clause 3.7.2(d) - (e)
clause 3.7.3(e) - (g)
clause 3.7A(c)
clause 3.8.2 (a) - (b)
clause 3.8.2(b1)
clause 3.8.2(e)
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clause 3.8.4(e)
clause 3.8.8(b)
clause 3.8.17(e)
clause 3.8.18(b) - (c)
clause 3.8.19(a)

Provisions of the Rules
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clause 3.8.20(g)
clause 3.8.22(c)(1) - (3)
clause 3.9.7(a)
clause 3.11.4(j)
clause 3.11.5(i)
clause 3.11.7(a)
clause 3.12.11(a)(1)
clause 3.12.11(e)
clause 3.12.11(g)
clause 3.12A.4
clause 3.12A.7(e)
clause 3.12A.7(i1)
clause 3.12A.7(n)(1)
clause 3.13.2(h)
clause 3.13.3(b) - (c)
clause 3.13.3(h) - (i)
clause 3.13.3(p)
clause 3.13.12(f)
clause 3.13.12(g)
clause 3.14.3(e) - (f)
clause 3.15.8(b)
clause 3.15.9(f)
clause 3.15.16
clause 3.15.20(a)
clause 3.15.21(h)
clause 3.15.25(a)
clause 3.15.11A(b)(2)
clause 3.18.4(e)
clause 3.19(c)
clause 4.3.3(c)
clause 4.3.3(e)(1) - (3)
clause 4.3.4(a) - (c)
clause 4.3.4(d)
clause 4.3.4(f) - (g)
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clause 4.4.3
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clause 4.8.2(a) - (b)
clause 4.8.5A(d)
clause 4.8.9(c)
clause 4.8.9A
clause 4.8.12(a)
clause 4.8.13(a)(1) - (4)
clause 4.8.13(b)
clause 4.8.14(b)
clause 4.8.14(d) - (e)
clause 4.9.2(c)
clause 4.9.2A(c)
clause 4.9.3(d)
clause 4.9.3A(c) - (d)
clause 4.9.3B(b)
clause 4.9.4(a) - (f)
clause 4.9.4A(a) - (b)
clause 4.9.6(a)(1) - (2)
clause 4.9.6(b)(3)
clause 4.9.6(b)(4)
clause 4.9.7(a)
clause 4.9.7(b)(1) - (4)
clause 4.9.8(a) - (c)
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clause 4.9.9
clause 4.9.9A
clause 4.9.9B
clause 4.10.2(b) - (c)
clause 4.10.2(d)
clause 4.10.3(a)
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clause 5.3.2(b)
clause 5.3.2(d)
clause 5.3.3(b)
clause 5.3.3(b1)
clause 5.3.3(c)
clause 5.3.4A(b)

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clause 5.3.5(g) - (h)
clause 5.3.6(a)
clause 5.3.6(b) - (c1)
clause 5.3.6(h)
clause 5.3.6(j)
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clause 5.7.2(i)
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clause 5.7.7(aa)
clause 5.7.7(ae)
clause 5.8.1(a)
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Provisions of the Rules
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clause 5.9.1(a) - (b)
clause 5.9.2(a)
clause 5.9.3(c)
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clause 7.2.3(a)(1) - (2)
clause 7.2.3(a)(3)
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clause 7.2.8(d)
clause 7.3.1(a)(1) - (12)
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clause 7.6.1(a)
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clause 7.13(b)
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clause 8.6.1(b)(1) - (3)
clause 8.6.1(d)
clause 8.6.1(e)
clause 8.6.3
clause 8.7.2(e)
clause 8.7.2(f)
clause 9.4.3(b)
clause 9.4.3(d)(1) - (2)
clause 9.4.3(f)
clause 9.4.3(g)
clause 9.7.2(c)
clause 9.12.3(c)(1) - (2)
clause 9.12.3(e)(1) - (2)
clause 9.12.3(h)
SCHEDULE 9A3
clause 6.3(a) - (b)

Schedule 2—Transitional and savings provisions

Part 1—Interpretation

1—Interpretation

- (1) In this Schedule—

ACCC means the Australian Competition and Consumer Commission established by section 6A of the *Trade Practices Act 1974* of the Commonwealth.
- (2) Terms used in this Schedule that are defined in the Code have, when used in this Schedule in reference to matters under the Code, the same respective meanings as in the Code.
- (3) Terms used in this Schedule that are defined in the Rules have, when used in this Schedule in reference to matters under the Rules, the same respective meanings as in the Rules.

Part 2—Transitional and savings provisions

2—Continuation of Advocacy Panel

On the commencement date of the new National Electricity Law—

- (a) the persons appointed under clause 8.10 of the Code, and comprising the Advocacy Panel immediately before the commencement date, are to be taken to be the persons appointed to comprise the Advocacy Panel within the meaning of the Rules; and
- (b) the Advocacy Panel within the meaning of the Rules is to be taken to be the same body as the Advocacy Panel established under clause 8.10 of the Code.

3—Continuation of Inter-regional Planning Committee

On the commencement date of the new National Electricity Law—

- (a) the persons appointed under clause 5.6.3 of the Code, and comprising the Inter-regional Planning Committee immediately before the commencement date, are to be taken to be the persons appointed to comprise the Inter-regional Planning Committee within the meaning of the Rules; and
- (b) the Inter-regional Planning Committee within the meaning of the Rules is to be taken to be the same body as the Inter-regional Planning Committee established under clause 5.6.3 of the Code.

4—Continuation of settlement residue committee

On the commencement date of the new National Electricity Law—

- (a) the persons appointed under clause 3.18.5 of the Code, and comprising the settlement residue committee immediately before the commencement date, are to be taken to be the persons appointed to comprise the settlement residue committee within the meaning of the Rules; and
- (b) the settlement residue committee within the meaning of the Rules is to be taken to be the same body as the settlement residue committee established under clause 3.18.5 of the Code.

5—Continuation of Dispute Resolution Adviser, pool of persons for Dispute Resolution Panels, and Dispute Resolution Panels

- (1) On the commencement date of the new National Electricity Law, the person or persons appointed under clause 8.2.2(a) of the Code to perform the functions of the Adviser (within the meaning of the Code), and in office immediately before the commencement date, are to be taken to be the person or persons appointed to perform the functions of the Adviser within the meaning of the Rules.

- (2) On the commencement date of the new National Electricity Law, the pool of persons established and maintained under clause 8.2.2(e) of the Code by the Adviser (within the meaning of the Code) is to be taken to be the pool of persons established and maintained under the Rules by the Adviser (within the meaning of the Rules) from which the members of a Dispute Resolution Panel (within the meaning of the Rules) may be selected in accordance with the Rules.
- (3) On the commencement date of the new National Electricity Law, any persons who, immediately before the commencement date, comprised a Dispute Resolution Panel established to determine a dispute under clause 8.2.6A(a) of the Code are to be taken to comprise a Dispute Resolution Panel established to determine that dispute under the Rules.

6—Metering Providers

A person who, immediately before the commencement date of the new National Electricity Law, was accredited and registered by NEMMCO under clause 7.4.2 of the Code as a Metering Provider in respect of a particular category of registration is, on the commencement date, to be taken to be accredited and registered by NEMMCO under the Rules as a Metering Provider in respect of that category of registration.

7—Registered Participant Agents

A person who, immediately before the commencement date of the new National Electricity Law, was a Code Participant Agent appointed by a Code Participant (the *Participant*) under clause 4.11.5 of the Code is, on the commencement date, to be taken to be a Registered Participant Agent appointed by the Participant under the Rules.

8—Exemptions relating to appointment of intermediaries

On the commencement date of the new National Electricity Law, an exemption granted by NEMMCO under clause 2.9.3 of the Code and in force immediately before the commencement date is to be taken to be an exemption granted under clause 2.9.3 of the Rules.

9—Classifications relating to generating units, loads, connection points and network services

On the commencement date of the new National Electricity Law—

- (a) a generating unit that, immediately before the commencement date, was classified under the Code as a scheduled generating unit, a non-scheduled generating unit, a market generating unit, a non-market generating unit or an ancillary service generating unit is to be taken to have been classified as such under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code; and

Note—

see clause 2.2.1(e)(1), (f) and (f1) of the initial National Electricity Rules

- (b) a load that, immediately before the commencement date, was classified under the Code as a first tier load, a second tier load, a market load, an intending load, an ancillary service load or a scheduled load is to be taken to have been classified as such under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code; and

Note—

see clauses 2.3.1(b)(1) and (f) and 2.3.4(d) of the initial National Electricity Rules

- (c) a connection point that, immediately before the commencement date, was classified under the Code as a market connection point or a market load in relation to a particular person is to be taken to have been classified as such in relation to that person under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code; and

Note—

see clauses 2.3.1(c), 2.3.3(d) and 2.3.4(h) of the initial National Electricity Rules

- (d) a network service that, immediately before the commencement date, was classified under the Code as a market network service or a scheduled network service is to be taken to have been classified as such under the Rules subject to any terms and conditions that were in force in respect of it immediately before the commencement date and that had been imposed by NEMMCO under the Code.

Note—

see clauses 2.5.2(a) and 2.5.3(a) of the initial National Electricity Rules

10—Classifications relating to meters

On the commencement date of the new National Electricity Law, a metering installation that, immediately before the commencement date, was classified under the Code as a revenue metering installation or a check metering installation is to be taken to have been classified as such under the Rules.

11—Participant compensation fund

On and from the commencement date of the new National Electricity Law, the Participant compensation fund established by NEMMCO under clause 3.16 of the Code is to be taken to be the Participant compensation fund required to be maintained by NEMMCO under the Rules.

12—Rule funds

On and from the commencement date of the new National Electricity Law, the Code funds established by NEMMCO under section 67 of the old National Electricity Law and clause 1.11 of the Code are to be taken to be the corresponding Rule funds required to be maintained by NEMMCO under the new National Electricity Law and the Rules.

13—Actual and pending Chapter 6 determinations and preliminary action—ACCC

- (1) On the commencement date of the new National Electricity Law, a determination made by the ACCC in accordance with Chapter 6 of the Code and in effect immediately before the commencement date—
 - (a) continues in effect and is to be taken to be a determination made by the AER under the new National Electricity Law and Chapter 6 of the Rules; and
 - (b) may be revoked, amended or varied by the AER in accordance with the new National Electricity Law and the Rules as if it were made under the new National Electricity Law and Chapter 6 of the Rules.
- (2) On the commencement date of the new National Electricity Law, a determination made by the ACCC in accordance with clause 9.8.4C of the Code and in effect immediately before the commencement date—
 - (a) continues in effect and is to be taken to be a determination made by the AER under the new National Electricity Law and clause 9.8.4C of the Rules; and
 - (b) may be revoked, amended or varied by the AER in accordance with the new National Electricity Law and the Rules as if it were made under the new National Electricity Law and clause 9.8.4C of the Rules.
- (3) On the commencement date of the new National Electricity Law, any action taken by the ACCC for the purpose of making a determination in accordance with Chapter 6 of the Code that was not made before the commencement date is to be taken to have been taken by the AER for the purpose of making a determination under the new National Electricity Law and Chapter 6 of the Rules.

- (4) Despite subclauses (1) and (2), the question of whether such a determination should be revoked, amended or varied is to be decided by the AER taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (5) Despite subclause (3), if the ACCC had published a draft determination for the purposes of Chapter 6 of the Code and had not published a final determination in respect of the matter before the commencement date of the new National Electricity Law, then the AER must take any action after the commencement date for the purpose of making the final determination, and make the final determination, as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).
- (6) Despite subclauses (3) and (5), if the ACCC had taken action for the purpose of making a determination under clause 2.5.2(c) of the Code and a consequent revenue cap determination in accordance with Chapter 6 of the Code and had not published a draft or final determination in respect of the matter before the commencement date of the new National Electricity Law, then the AER must take any action after the commencement date for the purpose of making any such determination, and make any such determination, in respect of the matter as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).
- (7) The question of whether a determination made as referred to in subclause (5) or (6) should be revoked, amended or varied is to be decided by the AER taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (8) An appeal against or review of—
 - (a) a determination referred to in subclause (1), (2) or (7); or
 - (b) action referred to in subclause (5) or (6),is to be decided as if the only matters to be taken into account in deciding the appeal or review were those that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (9) Subclauses (4), (5), (6), (7) and (8) apply subject to any Rules made after the commencement date of the new National Electricity Law.

14—Actual and pending Chapter 6 determinations and preliminary action—jurisdictional regulator

- (1) On the commencement date of the new National Electricity Law, a determination made by a jurisdictional regulator in accordance with Chapter 6 of the Code and in effect immediately before the commencement date—
 - (a) continues in effect and is to be taken to be a determination made by that jurisdictional regulator under the new National Electricity Law and Chapter 6 of the Rules; and
 - (b) may be revoked, amended or varied by that jurisdictional regulator in accordance with the new National Electricity Law and the Rules as if it were made under the new National Electricity Law and Chapter 6 of the Rules.
- (2) On the commencement date of the new National Electricity Law, any action taken by a jurisdictional regulator for the purpose of making a determination in accordance with Chapter 6 of the Code that was not made before the commencement date is to be taken to have been taken by that regulator for the purpose of making a determination under the new National Electricity Law and Chapter 6 of the Rules.
- (3) Despite subclause (1), the question of whether such a determination should be revoked, amended or varied is to be decided by the jurisdictional regulator taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (4) Despite subclause (2), if the jurisdictional regulator had published a draft determination for the purposes of Chapter 6 of the Code and had not published a final determination in respect of the matter before the commencement date of the new National Electricity Law, then the jurisdictional regulator must take any action after the commencement date for the purpose of making the final determination, and make the final determination, as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).
- (5) Despite subclauses (2) and (4), if the jurisdictional regulator had taken action for the purpose of making a determination under clause 2.5.2(c) of the Code and a consequent revenue cap determination in accordance with Chapter 6 of the Code and had not published a draft or final determination in respect of the matter before the commencement date of the new National Electricity Law, then the jurisdictional regulator must take any action after the commencement date for the purpose of making any such determination, and make any such determination, in respect of the matter as if the provisions that apply are those of the Code as in force immediately before the commencement date (and not those of the new National Electricity Law or the Rules).

- (6) The question of whether a determination made as referred to in subclause (4) or (5) should be revoked, amended or varied is to be decided by the jurisdictional regulator taking into account only matters that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (7) An appeal against or review of—
- (a) a determination referred to in subclause (1) or (6); or
 - (b) action referred to in subclause (4) or (5),
- is to be decided as if the only matters to be taken into account in deciding the appeal or review were those that would have been relevant for that purpose under, or for the purposes of, the Code as in force immediately before the commencement date of the new National Electricity Law.
- (8) Subclauses (3), (4), (5), (6) and (7) apply subject to any Rules made after the commencement date of the new National Electricity Law.

15—Continuation of disputes

On and from the commencement date of the new National Electricity Law, any dispute commenced in accordance with the dispute resolution regime set out in clause 8.2 of the Code and not completed before the commencement date must continue to be conducted and completed as if it were a dispute commenced in accordance with the dispute resolution regime under the Rules.

16—Continuation of consultation

On and from the commencement date of the new National Electricity Law, any consultation commenced under provisions of the Code and not completed before the commencement date must continue to be conducted and completed as if it were consultation commenced and conducted under the provisions of the Rules (if any) that correspond to those provisions of the Code.

17—Provision of information and documents

On the commencement date of the new National Electricity Law, any information or document that had been given or provided to the ACCC or NECA under a provision of the Code is to be taken to have been given or provided to the AEMC or the AER under the provision of the Rules (if any) that corresponds to that provision of the Code.

18—Continuation of things done under Code

- (1) On the commencement date of the new National Electricity Law—
 - (a) each rule, principle, guideline, test, standard, procedure, report, protocol or other document (however described) that had been issued, published, made, promulgated, approved, accepted or prepared under, or for the purposes of, a provision of the Code and that was in force for the purposes of the Code, or continued to have some effect or contingent effect for the purposes of the Code, immediately before the commencement date is to be taken to have been issued, published, made, promulgated, approved, accepted or prepared under, or for the purposes of, the provision of the Rules (if any) that corresponds to that provision of the Code; and
 - (b) a relevant action that had been taken under, or for the purposes of, a provision of the Code by any person or body (including the ACCC, NECA, NEMMCO, a jurisdictional regulator, a Code Participant, the Reliability Panel, the Inter-regional Planning Committee, the settlement residue committee, the Dispute Resolution Adviser or a Dispute Resolution Panel) and that continued to have some effect or contingent effect for the purposes of the Code immediately before the commencement date is to be taken to be a relevant action that has been taken under, or for the purposes of, the provision of the Rules (if any) that corresponds to that provision of the Code; and
 - (c) a right, privilege, obligation or liability that had accrued or been acquired or incurred under a provision of the Code and was in existence immediately before the commencement date is to be taken to be a right, privilege, obligation or liability that has accrued or been acquired or incurred under the provision of the Rules (if any) that corresponds to that provision of the Code.
- (2) Subclause (1)(a) applies in respect of a rule, principle, guideline, test, standard, procedure, report, protocol or other document (however described) issued, published, made, promulgated, approved, accepted or prepared by the ACCC or NECA under, or for the purposes of, a provision of the Code despite the fact that the corresponding provision of the Rules (if any) may refer to that rule, principle, guideline, test, standard, procedure, report, protocol or other document being issued, published, made, promulgated, approved, accepted or prepared by the AER or the AEMC.
- (3) Subclause (1)(b) applies in respect of any relevant action taken by the ACCC or NECA under, or for the purposes of, a provision of the Code despite the fact that the corresponding provision of the Rules (if any) may refer to the relevant action being taken by the AER or the AEMC.

- (4) For the purposes of subclause (1)(b), *relevant action* means the doing of anything, including (without limitation) any of the following:
- (a) the performance or exercise of any function, power, obligation or right;
 - (b) the making or publishing of any determination, decision, declaration or recommendation;
 - (c) the issuing, publishing, making, preparing, promulgation, approval or acceptance of any rule, principle, guideline, test, standard, procedure, report, protocol or other document;
 - (d) the issuing, giving, publishing, lodging or providing or service or receipt of any statement, invoice, communication, notice or other document;
 - (e) the establishment of any criteria, process or procedure;
 - (f) the giving or receipt of any approval or acceptance;
 - (g) the giving or receipt of any direction or instruction;
 - (h) the making of any requirement;
 - (i) the provision or receipt of any submission, information or data;
 - (j) the making, submission, lodgement or receipt of any bid or offer;
 - (k) the making or receiving of any inquiry, request or application;
 - (l) the making of any calculation;
 - (m) the undertaking or completion of any transaction;
 - (n) the undertaking or application of any test, process or procedure;
 - (o) the payment of any monetary amount or fee;
 - (p) the making or receipt of any claim;
 - (q) the making of any agreement;
 - (r) the making or acceptance of any appointment;
 - (s) the establishment or maintenance of any database or register;
 - (t) the undertaking of any investigation, inquiry or review.
- (5) Nothing in subclause (1)(b) or (c) is to be taken as—
- (a) entitling a person or body to exercise—
 - (i) a power or right under the Code to the extent that the power or right has already been exercised under the Rules; or

- (ii) a power or right under the Rules to the extent that the power or right has already been exercised under the Code; or
 - (b) requiring a person or body to perform—
 - (i) a function or obligation under the Code to the extent that the function or obligation has already been performed under the Rules; or
 - (ii) a function or obligation under the Rules to the extent that the function or obligation has already been performed under the Code.
- (6) This clause does not apply to the extent that it is inconsistent with the new National Electricity Law or another provision of these Regulations.

19—Time periods

If a period of time for the doing of anything under a provision of the Code had commenced and had not expired immediately before the commencement date of the new National Electricity Law, then, on and from the commencement date, that period of time is to be taken to continue to run (and the portion of the period that has elapsed is to be taken into account) under, or for the purposes of, the provision of the Rules (if any) that corresponds to that provision of the Code.

20—Disclosure of information held by NECA

- (1) Despite anything to the contrary in the Code or at law, NECA may disclose to the AER or the AEMC any information that had been provided to NECA under, or for the purposes of, a provision of the old National Electricity Law or the Code (whether or not such information was provided in confidence to NECA), and the AER or the AEMC (as the case may be) may use that information for any purpose connected with the performance of its functions or the exercise of its powers under the provision of the new National Electricity Law or the Rules (if any) that corresponds to that provision of the old National Electricity Law or the Code.
- (2) A disclosure of information referred to in subclause (1) may be made by providing a document, or a copy of a document, that contains that information.

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 2005

MEN05/001CS