

TASMANIA

**ELECTRICITY REFORM (IMPLEMENTATION)
BILL 2013**

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**ELECTRICITY REFORM (IMPLEMENTATION)
BILL 2013**

*(Brought in by the Minister for Energy and Resources, the
Honourable Bryan Alexander Green)*

A BILL FOR

**An Act to amend the *Electricity Supply Industry Act 1995*
and the *National Energy Retail Law (Tasmania) Act 2012***

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Electricity Reform
(Implementation) Act 2013*.

2. Commencement

The provisions of this Act commence on a day
or days to be proclaimed.

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**PART 2 – ELECTRICITY SUPPLY INDUSTRY ACT
1995 AMENDED**

3. Principal Act

In this Part, the *Electricity Supply Industry Act 1995** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definitions after the definition of *Aurora Retail*:

approved methodology means a methodology approved under section 43H;

approved standard form means a standard form approved under section 43H in relation to an approved type of contract;

approved type of contract means a type of contract approved under section 43H;

- (b) by omitting the definition of *business customer*;
- (c) by omitting the definition of *contestable customer*;

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- (d) by inserting the following definition after the definition of *licence*:

load following swap means a type of contract that allows a retailer to contract for a specified quantity of electricity over the duration of the contract, where that quantity is allocated to trading intervals, within the meaning of the National Electricity Rules, in proportion to the Tasmanian net system load profile, within the meaning of the NEM Metrology Procedures made in accordance with the National Electricity Rules;

- (e) by omitting the definition of *non-contestable customer*;

- (f) by inserting the following definition after the definition of *public land*:

regulated offer retailer means a person who is declared to be a regulated offer retailer in an order made under section 38A(1);

- (g) by omitting the definition of *residential customer*;

- (h) by omitting the definition of *reviewable decision* and substituting the following definition:

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reviewable decision means any direction, decision or determination under this Act, the regulations or the Code other than –

- (a) a decision of the Regulator or the Minister to make an order, approval or determination under Division 4 or 4A of Part 3; or
- (b) a direction, decision or determination declared by this Act, the regulations or the Code not to be reviewable;

- (i) by inserting the following definition after the definition of *small customer*:

standard retail contract has the meaning it has in the National Energy Retail Law (Tasmania);

5. Section 6 amended (Regulator’s functions and powers)

Section 6(1) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) to monitor and provide reports in relation to the development of competition in respect of the electricity supply industry;

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6. Section 8 amended (Administrative fairness and independence)

Section 8 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

(1) In exercising powers and functions under this Act, the Regulator must not unfairly discriminate between electricity entities that are authorised to provide similar services, between regulated offer retailers, between customers for electricity or between other persons.

(b) by inserting in subsection (3) “section 9,” after “under”;

(c) by omitting from subsection (3) “of a kind specified in section 122(2A)” and substituting “for the purposes of Division 4 or 4A of Part 3”.

7. Section 24A substituted

Section 24A of the Principal Act is repealed and the following section is substituted:

24A. Licence condition relating to system security capability

If a licence authorises an electricity entity to operate a transmission network,

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it is a condition of the licence that the electricity entity must ensure that it has the capability to maintain the security of the power system in mainland Tasmania.

8. Part 3, Division 4, Subdivision 1: Heading inserted

Division 4 of Part 3 of the Principal Act is amended by inserting the following heading before section 38:

Subdivision 1 – Retailing generally

9. Section 38 substituted

Section 38 of the Principal Act is repealed and the following sections are substituted:

38. Transitional provisions in relation to sale of electricity

- (1) A person must not, in the period commencing on 1 January 2014 and ending immediately before 1 April 2014, sell electricity to a transitional customer at premises situated on mainland Tasmania, unless the person is the designated retailer, within the meaning of the National Energy Retail Law (Tasmania), in respect of the customer.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 000 penalty units; or

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- (b) an individual, a fine not exceeding 500 penalty units.
- (2) A person must not, in the period commencing on 1 April 2014 and ending on 30 June 2014, sell electricity to a transitional customer at premises situated on mainland Tasmania, unless the person is a regulated offer retailer (whether or not the person is a regulated offer retailer for the area in which the premises are situated).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 000 penalty units; or
 - (b) an individual, a fine not exceeding 500 penalty units.
- (3) Subsections (1) and (2) do not apply in relation to –
- (a) a person to whom section 23 of the *National Energy Retail Law (Tasmania) Act 2012* applies; or
 - (b) a sale of electricity to which section 23 of the *National Energy Retail Law (Tasmania) Act 2012* applies or an offer to sell such electricity; or

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- (c) a person who is an exempt seller, within the meaning of the National Energy Retail Law (Tasmania), if the sale of electricity to which that subsection would otherwise apply is permitted, or not prohibited, by the terms of the exemption of the person.
- (4) A retailer authorisation under the National Energy Retail Law (Tasmania) is of no effect under that Law to the extent that it authorises, or purports to authorise, an authorised retailer to sell electricity to a customer in contravention of this section.
- (5) In this section –

amending Act means the *Electricity Reform (Implementation) Act 2013*;

transitional customer means a person –

- (a) who was, under this Act as in force before the commencement of the amending Act, a non-contestable customer at premises situated on mainland Tasmania; and
- (b) who is, on the day on which this section

commences, a customer,
of a regulated offer
retailer, in respect of
those premises.

38A. Regulated offer retailers

- (1) The Minister may, by order, declare one or more retailers to be a regulated offer retailer.
- (2) A retailer may be declared in an order under subsection (1) to be a regulated offer retailer for all of the State or for a part, or parts, of the State specified in the order.
- (3) A retailer may only be declared in an order under subsection (1) to be a regulated offer retailer if the retailer, a subsidiary of the retailer, or a related body corporate of the retailer, have between them more than 50,000 small customers at premises in mainland Tasmania.
- (4) For the avoidance of doubt, an order under subsection (1) continues to apply, unless it is revoked, even if the retailer in relation to which it is made, a subsidiary of the retailer, or a related body corporate of the retailer, have, at any time after the order is made and while the order is in force, between them less than 50,000 small customers at premises in mainland Tasmania.

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(5) In this section –

related body corporate, in relation to a regulated offer retailer, means a person that is a related body corporate of the retailer under the Corporations Act;

subsidiary, in relation to a regulated offer retailer, means a subsidiary of the retailer under the Corporations Act.

38B. Local area retailer

The Minister, by order, may declare a regulated offer retailer to be a local area retailer for this State for the purposes of the National Energy Retail Law (Tasmania).

38C. Entry into certain agreements is authorised

Nothing in any law of Tasmania is to be taken to prevent a Minister entering into an agreement, arrangement or contract under which, or in relation to which, a Minister agrees to subsequently –

- (a) make an order under section 38A or 38B or an approval under section 43H; or
- (b) take steps for the making of regulations under this Act for the purposes of this Division or Division 4A –

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and accordingly –

- (c) a Minister is, for the purpose of carrying out or giving effect to that agreement, arrangement or contract, authorised to make such an order or approval or take such steps for the making of regulations under this Act for the purposes of this Division or Division 4A; and
- (d) the Governor is authorised to make any such regulations.

10. Sections 40AA and 40AB inserted

After section 39 of the Principal Act, the following sections are inserted in Subdivision 1:

40AA. Determination of certain maximum prices

(1) The Regulator must determine –

- (a) the maximum prices that may be charged in respect of small customers of a regulated offer retailer under a standard retail contract; or
- (b) a method of determining the maximum prices that may be charged in respect of small customers of a regulated offer retailer under a standard retail contract.

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- (2) The Regulator must make a separate determination under subsection (1) in respect of each regulated offer retailer.
- (3) In determining the maximum prices that may be charged in respect of small customers of a regulated offer retailer under a standard retail contract, or a method of determining the maximum prices that may be charged in respect of small customers of a regulated offer retailer under a standard retail contract, the Regulator is to –
 - (a) estimate the relevant costs of the regulated offer retailer in providing to small customers of a regulated offer retailer services under standard retail contracts; and
 - (b) take into account the principle that the maximum prices that may be imposed under standard retail contracts by that regulated offer retailer in respect of small customers, when all those contracts are taken together, are to be such as will enable a reasonable return on the assets of the regulated offer retailer that are reasonably required for the provision of those services under such contracts, after the relevant costs are taken into account; and

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- (c) the principle that small customers should be protected from the adverse effects of the exercise of substantial market power by –
- (i) the Hydro-Electric Corporation; or
 - (ii) the regulated offer retailer in relation to prices, pricing policies and standards of service in respect of the provision of services to the small customers by the regulated offer retailer under standard retail contracts; and
- (d) the principle that, for the purpose of benefiting the public interest, there is a need for efficiency in the provision of services under standard retail contracts for small customers of a regulated offer retailer.
- (4) For the purposes of this section, the relevant costs of the regulated offer retailer in providing to small customers of a regulated offer retailer services under standard retail contracts consist of –
- (a) the wholesale electricity costs of the regulated offer retailer in

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- relation to the provision of those services; and
- (b) the transmission and distribution costs of the regulated offer retailer in providing those services; and
 - (c) the cost to serve of the regulated offer retailer in providing those services; and
 - (d) any other costs, incurred by the regulated offer retailer in providing those services, that the Regulator thinks fit, including but not limited to –
 - (i) the cost of any obligation imposed on the authorised retailer by or under this Act; or
 - (ii) the costs, to the regulated offer retailer in relation to the generation of electricity, that may be imposed under any Commonwealth legislation relating to the emission of carbon.
- (5) For the purposes of this section, the wholesale electricity costs of a regulated offer retailer in providing to small customers services under standard retail contracts consist of the costs of

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purchasing electricity for the purposes of providing those services, including any adjustment to the costs that would be made if the regulated offer retailer and the Hydro-Electric Corporation were to enter into a contract that –

- (a) is a contract in the approved standard form determined under section 43H(1) for a load following swap; and
 - (b) contained prices calculated in accordance with the approved methodology in relation to contracts in that approved standard form.
- (6) For the purposes of this section, the transmission and distribution costs of the regulated offer retailer in providing the services to which the standing offer prices relate consist of –
- (a) the prices for the distribution of the electricity that are charged to the regulated offer retailer as determined in accordance with the National Electricity Rules and any relevant distribution determination; and
 - (b) the prices for the transmission of the electricity that are charged to the regulated offer retailer as determined in accordance with

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the National Electricity Rules and
any relevant transmission
determination.

- (7) For the purposes of this section, the cost to serve of the regulated offer retailer in providing the services to which the standing offer prices relate consist of the costs (other than those referred to in subsection (4)(a), (b) or (d)) that are, in the opinion of the Regulator, reasonably incurred by the regulated offer retailer in the efficient provision of retail electricity services to customers under standard retail contracts.
- (8) The Regulator may amend or revoke a determination under subsection (1).
- (9) The regulations may make provision in relation to –
- (a) the determination by the Regulator of matters under this section; and
 - (b) the amending or revocation of such determinations; and
 - (c) the making of adjustments to such determinations; and
 - (d) the charging to an electricity entity or an regulated offer retailer of costs incurred by the Regulator in exercising the Regulator's powers under this

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section or regulations for the purposes of this section.

- (10) A determination under this section remains in force for the period determined in accordance with regulations made for the purposes of this section.
- (11) If regulations are made for the purposes of this section, a determination under this section, and any amendment or revocation, or adjustment, of the determination under this section, must be made in accordance with the regulations.
- (12) The regulations may provide that, in relation to the first determination to be made by the Regulator after the commencement of this section, the costs to serve are the costs specified by the Minister in a submission made to the Regulator in respect of the determination.

40AB. Declarations and determinations in relation to certain services

- (1) The Regulator may declare that goods or a service (other than a service provided under a standard retail contract in respect of small customers) that are or may be provided by an electricity entity or an authorised retailer specified in the declaration is a declared electrical service.

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- (2) The Regulator may only make a declaration under subsection (1) in relation to goods or a service, that are or may be provided by an electricity entity or an authorised retailer specified in the declaration, if –
- (a) the electricity entity or authorised retailer has substantial market power in respect of the service; and
 - (b) the promotion of competition, efficiency or the public interest requires the making of the declaration.
- (3) The Regulator may amend or revoke a declaration made under subsection (1).
- (4) If the Regulator declares in accordance with subsection (1) goods or a service to be a declared electrical service, the Regulator may, in accordance with the regulations, determine the maximum tariffs and charges, in relation to the declared electrical service, that the electricity entity or authorised retailer specified in the declaration may charge for the provision of the service.
- (5) If the Regulator determines in accordance with subsection (4) the maximum tariffs and charges that the electricity entity or authorised retailer specified in the declaration may charge

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for the provision of a declared electrical service, the electricity entity or authorised retailer must only impose a tariff or charge in respect of the service if the tariff or charge is in accordance with the determination, as amended, if at all, under subsection (6).

Penalty: Fine not exceeding 1 000 penalty units.

- (6) The Regulator may amend or revoke a determination made under subsection (4).
- (7) The regulations may make provision in relation to –
 - (a) the determination by the Regulator of matters under this section; and
 - (b) the amending or revocation of such determinations; and
 - (c) the making of adjustments to such determinations; and
 - (d) the charging to an electricity entity or an authorised retailer of costs incurred by the Regulator in exercising the Regulator's powers under this section or regulations for the purposes of this section.
- (8) If regulations are made in relation to the making, amendment or revocation of a declaration or determination under this

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section, a declaration or determination under this section that is to be made, amended or revoked, is to be, respectively, made, amended or revoked in accordance with the regulations.

- (9) A declaration or determination under this section remains in force for the period determined in accordance with regulations made for the purposes of this section.

11. Section 40 amended (Standing offer prices)

Section 40 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Aurora Retail must fix the tariffs and charges that are to constitute” and substituting “A regulated offer retailer must fix”;
- (b) by omitting from subsection (2) “Aurora Retail” and substituting “a regulated offer retailer”;
- (c) by omitting from subsection (2) “a tariff or charge” and substituting “a standing offer price”;
- (d) by omitting from subsection (2) “a tariff or charge” second occurring and substituting “a standing offer price”;

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- (e) by omitting from subsection (3) “tariff or charge” twice occurring and substituting “standing offer price”;
 - (f) by omitting from subsection (3) “tariffs or charges” and substituting “standing offer prices”;
 - (g) by omitting from subsection (4) “Aurora Retail” and substituting “A regulated offer retailer”;
 - (h) by omitting from subsection (4)(a) “tariff or charge” twice occurring and substituting “standing offer price”;
 - (i) by omitting from subsection (4)(b) “tariff or charge” three times occurring and substituting “standing offer price”;
 - (j) by omitting from subsection (5) “tariff or charge” twice occurring and substituting “standing offer price”;
 - (k) by inserting in subsection (5)(a) “a determination of the Regulator under section 40AA(1),” after “Act,”;
 - (l) by omitting from subsection (6) “tariff or charge, Aurora Retail” and substituting “standing offer price, a regulated offer retailer”;
 - (m) by omitting from subsection (6) “tariffs or charges” and substituting “standing offer price”;

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- (n) by omitting from subsection (7) “tariff or charge” four times occurring and substituting “standing offer price”.

12. Section 41 amended (Approval of standing offer prices)

Section 41 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “tariff or charge” first occurring and substituting “standing offer price”;
- (b) by omitting from subsection (1) “tariff or charge” second occurring and substituting “standing offer price”;
- (c) by omitting from subsection (1)(a) “tariff or charge” twice occurring and substituting “standing offer price”;
- (d) by omitting from subsection (1)(b) “tariff or charge” three times occurring and substituting “standing offer price”;
- (e) by omitting from subsection (2) “Aurora Retail” and substituting “A regulated offer retailer”;
- (f) by omitting from subsection (2) “tariff or charge” twice occurring and substituting “standing offer price”;
- (g) by omitting from subsection (3) “tariff or charge” first occurring and substituting “standing offer price”;

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- (h) by omitting from subsection (3) “tariff or charge” second occurring and substituting “standing offer price”;
- (i) by omitting from subsection (3)(a) “tariff or charge” twice occurring and substituting “standing offer price”;
- (j) by omitting from subsection (3)(b) “tariff or charge” twice occurring and substituting “standing offer price”;
- (k) by omitting from subsection (3)(c) “tariff or charge” first occurring and substituting “standing offer price”;
- (l) by omitting from subsection (3)(c) “tariff or charge” second occurring and substituting “standing offer price”.

13. Section 43A amended (Regulator may charge for certain expenses)

Section 43A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Aurora Retail” first occurring and substituting “a regulated offer retailer”;
- (b) by omitting from subsection (1)(a)(i) “tariff or charge” twice occurring and substituting “standing offer price”;
- (c) by omitting from subsection (1)(a)(ii) “Aurora Retail” and substituting “the regulated offer retailer”;

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- (d) by omitting from subsection (1)(a)(iii) “to non-contestable customers by Aurora Retail” and substituting “under standard retail contracts with the regulated offer retailer”;
- (e) by omitting from subsection (1)(b) “Aurora Retail” and substituting “the regulated offer retailer”;
- (f) by omitting from subsection (2) “Aurora Retail” first occurring and substituting “a regulated offer retailer”;
- (g) by omitting from subsection (2) “Aurora Retail” second occurring and substituting “the regulated offer retailer”;
- (h) by omitting from subsection (3) “Aurora Retail” first occurring and substituting “A regulated offer retailer”;
- (i) by omitting from subsection (3) “Aurora Retail” second occurring and substituting “the regulated offer retailer”;
- (j) by omitting from subsection (4) “Aurora Retail” first occurring and substituting “a regulated offer retailer”;
- (k) by omitting from subsection (4) “Aurora Retail” second occurring and substituting “the regulated offer retailer”.

14. Part 3, Division 4, Subdivision 2 inserted

After section 43B of the Principal Act, the following Subdivision is inserted in Division 4:

Subdivision 2 – Community service obligation concessions

43C. Interpretation of this Subdivision

In this Subdivision –

concession order means an order made under section 43D;

eligible person means a person who is a member of a class of eligible persons specified in a concession order to be a class of eligible persons;

relevant period means the period during which the user cost for which a concession sought was incurred;

user cost means an amount payable (including any interest) in respect of electricity supplied to residential premises.

43D. Concession orders

(1) The Minister, by order, may determine –

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- (a) the class or classes of persons, members of which are to be eligible persons; and
 - (b) the concessions in relation to those user costs that are payable by members of the class of eligible persons specified in the order; and
 - (c) that retailers are required to provide those concessions to those persons.
- (2) The concessions specified in a concession order may be expressed –
- (a) as a pro rata reduction of the user cost to which it applies; or
 - (b) as an amount that is payable in respect of, or that is to be deducted from, the user cost to which the order applies in relation to a particular period; or
 - (c) in any other manner.
- (3) Without limiting the subject matter or content of a concession order, a concession order may –
- (a) be of general or limited application; and
 - (b) differ according to differences in time, place or circumstance; and

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- (c) be expressed to apply subject to specified conditions; and
 - (d) specify the manner in which an application for the granting of a concession in relation to a particular user cost may be made.
- (4) If a concession order applies in relation to a user cost, a retailer –
- (a) to which the order applies; and
 - (b) that imposes the user cost on an eligible person to whom the order applies –
- must provide the concession to the eligible person.
- Penalty: Fine not exceeding 200 penalty units.
- (5) A concession order takes effect –
- (a) on the date that the order is published in the *Gazette* in accordance with the *Rules Publication Act 1953*; or
 - (b) if a later date is specified in the concession order, on that later date.
- (6) The Minister, by order, may revoke a concession order from the date specified in the order.

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- (7) Nothing in any law of Tasmania prevents the transfer, to a retailer to whom a concession order relates, of information in relation to a customer in respect of whom a contract was transferred to the retailer in accordance with the *Electricity Reform (Implementation) Act 2013*, if the information –
- (a) was held by a person with whom the contract was made before the contract was so transferred; and
 - (b) is required for the purpose of determining whether the retailer must provide the concession to the customer or the amount of such a concession that must be so provided.
- (8) The Minister is to provide to each authorised retailer a copy of each order made under this section.

43E. Minister to enter into agreements

- (1) The Minister may enter into a community service obligation agreement with a retailer.
- (2) A community service obligation agreement with a retailer is an agreement that sets out the circumstances, and the manner, in which –

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- (a) the retailer will comply with a concession order that applies to the retailer; and
 - (b) the Minister will reimburse to the retailer the amount of the concessions granted in accordance with the concession order.
- (3) An agreement entered into under subsection (1) is for the period, and is subject to the terms and conditions, determined by the parties to the agreement.

43F. Reimbursement of concessions

- (1) The Minister must ensure that a retailer is reimbursed by the State for the concessions granted by a retailer in accordance with a concession order.
- (2) If there is an agreement entered into with a retailer under section 43E(1), the reimbursement is to be in accordance with the agreement.

15. Part 3, Division 4A inserted

After section 43B of the Principal Act, the following Division is inserted in Part 3:

Division 4A – Wholesale electricity pricing and contracts

43G. Approved standard form contracts to be offered to authorised retailers

The Hydro-Electric Corporation must offer to each authorised retailer (and, at the election of an authorised retailer, must enter into with the authorised retailer) each contract, that relates to managing the financial risks associated with the purchase of electricity supplied, or to be supplied, to the authorised retailer in the national electricity market, that –

- (a) is an approved type of contract; and
- (b) is in an approved standard form in relation to that type of contract; and
- (c) contains prices calculated in accordance with the approved methodology in respect of that approved standard form.

Penalty: 1 000 penalty units.

43H. Approvals in relation to certain contracts of Hydro-Electric Corporation

- (1) The Regulator must approve –
 - (a) a type of contract; and

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-
- (b) a standard form, or standard forms, in relation to the type of contract specified in the approval; and
 - (c) a methodology for the calculation of prices in a contract that is in an approved standard form specified in the approval; and
 - (d) a total period, in a contract that is in an approved standard form specified in the approval, at any point of time in which an authorised retailer may elect to have the contract apply to prices for electricity; and
 - (e) a formula for determining the quantity of units of electricity that the Hydro-Electric Corporation is to be able to provide under all contracts that –
 - (i) are in one of the approved standard forms, specified in the approval, in relation to the approved type of contract; and
 - (ii) are offered by the Corporation during the total period specified in paragraph (d).
- (2) The Regulator must, in an approval under subsection (1), declare as an approved

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type of contract, a load following swap contract.

- (3) In determining whether to approve a type of contract under subsection (1), the Regulator must have regard to the following principles:
- (a) the principle that authorised retailers should have a choice of different types of contracts to enter into with the Hydro-Electric Corporation;
 - (b) the principle that a type of contract ought to be, as far as reasonably practicable, of a type of contract generally used in the national electricity market.
- (4) In determining whether to approve a standard form under subsection (1) in relation to an approved type of contract the Regulator must have regard to the following principles:
- (a) the principle that the terms and conditions of the approved standard form should be generally similar to those offered in contracts, of the approved type of contract, in the national electricity market; and
 - (b) the principle that the total period referred to in subsection (1)(d) should be of a duration similar to

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that generally used in the national electricity market for the purpose specified in that paragraph.

(5) In determining whether to approve a methodology to be used for the calculation of prices in a contract that is in an approved standard form in relation to an approved type of contract, the Regulator must take into account the principle that –

(a) prices in such contracts should be based upon the price in contracts that –

(i) relate to managing the financial risks associated with the purchase of electricity in Victoria; and

(ii) are of the approved type of contract –

as adjusted to accommodate any estimation by the Regulator of the effect of the difference between the supply of, and demand for, electricity in Tasmania after the approval is made; or

(b) the price should reflect the risks, to a retailer that enters into a contract that is in an approved standard form in relation to an approved type of contract, of variations in the demand for, or

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supply of, electricity in Tasmania that the retailer is required to provide under standard retail contracts with small customers.

- (6) The Regulator may revoke an approval under this section if the Regulator is of the opinion that the determination has ceased to reflect any of the principles in this section.
- (7) The regulations may make provision in relation to –
- (a) the approval by the Regulator of matters under this section; and
 - (b) the amending or revocation of an approval made under this section; and
 - (c) the charging to an electricity entity of costs incurred by the Regulator in exercising the Regulator's powers under this section or regulations for the purposes of this section.
- (8) If regulations are made for the purposes of this section, an approval or revocation of an approval under this section must be made in accordance with the regulations.
- (9) If the Regulator makes or revokes an approval under this section –

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- (a) the Regulator is to provide a copy of the approval or revocation to the Hydro-Electric Corporation and each authorised retailer; and
 - (b) the Regulator is to publish a copy of the approval or revocation on a website of the Regulator and to ensure such a copy remains on the website –
 - (i) while the approval continues to be in force; or
 - (ii) in the case of a revocation of an approval, for at least 6 months after the revocation comes into force.
- (10) The Regulator may approve under this section one or more standard forms in relation to an approved type of contract.
- (11) An approval this section remains in force for the period determined in accordance with regulations made for the purposes of this section.

43I. Determination of prices

- (1) The Regulator must publish guidelines that set out the process to be followed by the Hydro-Electric Corporation in applying an approved methodology in a

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contract that is in an approved standard form.

- (2) The Regulator is to monitor the calculation of prices, by Hydro-Electric Corporation, in a contract that is in an approved standard form.

43J. Regulator may fix prices if Hydro-Electric Corporation fails to implement pricing methodology

- (1) If the Regulator is satisfied that there has been a significant, deliberate or repeated failure by the Hydro-Electric Corporation to adequately apply an approved methodology in the calculation of prices to be applied in a contract, in an approved standard form, that the Hydro-Electric Corporation is, in accordance with section 43G, required to offer to an authorised retailer, the Regulator may, by notice to the Hydro-Electric Corporation and each authorised retailer, approve the prices to be fixed in such contracts.
- (2) Prices to be fixed by the Regulator in accordance with subsection (1) in a contract that is in an approved standard form, that the Hydro-Electric Corporation is, in accordance with section 43G, required to offer to an authorised retailer, are to be calculated in accordance with the approved

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methodology in relation to a contract that is in that approved standard form.

- (3) If the Regulator is of the opinion that there has been a radical failure in the plant by which electricity may be generated, transmitted or distributed, or a radical failure of all or part of the electricity supply industry, the Regulator may, by notice to the Hydro-Electric Corporation and each authorised retailer, after consulting with the Treasurer –
- (a) approve the prices to be fixed in a contract that is in an approved standard form and that the Hydro-Electric Corporation is, in accordance with section 43G, required to offer to an authorised retailer; and
 - (b) approve those prices, whether or not they are calculated in accordance with the approved methodology in relation to a contract in that approved standard form.
- (4) If the Regulator, under this section, approves the prices to be fixed in a contract that is in an approved standard form, that the Hydro-Electric Corporation is, in accordance with section 43G, required to offer to an authorised retailer, section 43G applies in relation to such contracts offered or

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entered into by the Hydro-Electric Corporation as if any reference in this Division, including that section, to prices calculated in accordance with an approved methodology were a reference to the prices so fixed.

- (5) If regulations are made for the purposes of this section, an approval under this section must be made in accordance with the regulations.

43K. Continuation of contracts

For the avoidance of doubt, the revocation of an approval under section 43H(6) or the issue of a notice under section 43J does not affect the validity or operation of a contract to which this Division relates, that was entered into before the revocation or issue.

43L. Transitional provisions in relation to approvals or determinations under this Division

- (1) The Minister may, in the first 6 months after this Division commences, approve a matter under this Division as if the Minister were the Regulator.
- (2) Regulations for the purposes of this Division may make provision in relation to the exercise by the Minister, as if the

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Minister were the Regulator, of the powers of the Regulator under this Division.

- (3) If regulations in accordance with subsection (2) make provision in relation to the exercise by the Minister, as if the Minister were the Regulator, of the powers of the Regulator under this Division, the Minister must exercise the power in accordance with those regulations.
- (4) If regulations are made for the purposes of subsection (2), regulations made for the purposes of another section in this Division in relation to the exercise by the Regulator of the Regulator's powers under the section to make approvals do not apply in relation to the Minister, except as may be provided in the regulations made for the purposes of subsection (2).

16. Section 49I inserted

After section 49H of the Principal Act, the following section is inserted in Division 10:

49I. Certain instruments not statutory rules

An instrument, determination, approval, notice or report made under this Part or under regulations made for the purposes of this Part, other than an order by the Minister, is not a statutory rule for the

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purposes of the *Rules Publication Act 1953*.

17. Section 122 amended (Regulations)

Section 122 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2A)(a) “for the purposes of Division 4 or 4A of Part 3” after “retailers”;
- (b) by inserting in subsection (2A)(b) “for the purposes of Division 4 or 4A of Part 3” after “determinations”;
- (c) by omitting subsection (2BAA);
- (d) by omitting subsections (2BC) and (2BD);
- (e) by omitting from subsection (2BE) “referred to in subsection (2A)(b)”;
- (f) by inserting the following paragraph after paragraph (bd) in subsection (2C):
 - (be) the *Electricity Reform (Implementation) Act 2013*;

**PART 3 – NATIONAL ENERGY RETAIL LAW
(TASMANIA) ACT 2012 AMENDED**

18. Principal Act

In this Part, the *National Energy Retail Law (Tasmania) Act 2012** is referred to as the Principal Act.

19. Section 15 amended (Interpretation)

Section 15 of the Principal Act is amended by omitting the definition of *Aurora Retail*.

20. Section 17A inserted

After section 17 of the Principal Act, the following section is inserted in Part 4:

17A. Modification of provisions of Law to apply to regulated offer retailers

- (1) In section 2 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, the definition of *designated retailer* is to be taken to be substituted by the following definition:

“**designated retailer**” for a small customer’s premises means –

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- (a) if there is no existing connection for the premises – the regulated offer retailer for the part of the State in which the connection is to be situated; or
- (b) if there is an existing connection for the premises (including where a connection alteration to an existing connection is required) –
 - (i) the financially responsible retailer for the premises; and
 - (ii) the regulated offer retailer for the part of the State in which the connection is situated;

(2) In section 2 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, the following definition is to be taken to be inserted after the definition of *regulated entity*:

regulated offer retailer means a retailer that is prescribed to be a regulated offer retailer in an Order made under section 38A of the *Electricity Supply Industry Act 1995*;

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- (3) In section 11 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, for subsection (1) there is to be substituted the following subsection:

(1) A participating jurisdiction must nominate, in an Order made under section 38B of the *Electricity Supply Industry Act 1995*, a regulated offer retailer as a local area retailer for that jurisdiction for the purposes of this Law.

- (3) In section 54 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, after subsection (6) there is to be inserted the following subsection:

(7) As soon as practicable after becoming aware that a small customer is consuming energy under a deemed customer retail arrangement, the financially responsible retailer for the premises must advise the customer of the customer's right to enter into, with the regulated offer retailer in relation to the customer, a standard retail contract containing standing offer prices.

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21. Section 18 amended (Standing offer prices)

Section 18 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Aurora Retail” and substituting “a regulated offer retailer”;
- (b) by omitting from subsection (2)(b) “Aurora Retail” and substituting “a regulated offer retailer”;
- (c) by inserting the following subsection after subsection (2):

(3) In this section –

regulated offer retailer means a person declared to be a regulated offer retailer in an order made under section 38A(1) of the *Electricity Supply Industry Act 1995*.

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PART 4 – CONCLUDING PROVISIONS

22. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day after the day on which all of the provisions of this Act commence.

draft only