



Victoria Government Gazette

No. S 200 Tuesday 28 August 2007
By Authority, Victorian Government Printer

Electricity Industry Act 2000 ORDER UNDER SECTION 15A AND SECTION 46D

Order in Council

The Governor in Council, under section 15A and section 46D of the **Electricity Industry Act 2000**, on the recommendation of the Minister, makes the following Order.

1. Commencement

This Order comes into operation on the day it is published in the Government Gazette.

2. Definitions and application of Order

2.1 Defined Terms

In this Order the following definitions apply unless the context requires otherwise:

“**accumulation meter**” means a meter measuring and recording electrical energy in periods in excess of a trading interval.

“**Act**” means the **Electricity Industry Act 2000**.

“**business day**” means a day, other than a Saturday or Sunday, or a public holiday appointed under the **Public Holidays Act 1993**.

“**change in taxes event**” means a change in the way in which or rate at which a relevant tax is calculated or the removal or imposition of a relevant tax to the extent that the change, removal or imposition is directly attributable to the Regulated Services and results in:

- (a) a distributor being required to pay an amount in the regulatory period that the distributor would not have otherwise been required to pay; or
- (b) a change in the amount in the regulatory period which a distributor is required to pay (whether directly by way of tax or indirectly through prices paid for goods or services to another distributor) from that which it would have been required to pay, under the law that applied at the later of:
 - (i) the Start Date; or
 - (ii) the date of the most recent change in taxes event, in respect of the relevant tax concerned, that has been the subject of a decision by the Commission under clause 10.2 or 10.3,

as a result of a new statute or amendment of any statute or the interpretation of an existing statute resulting from the decision of a court, tribunal, arbitrator or authority which is binding on the distributor.

“**Charter**” means the Charter of Consultation and Regulatory Practice made by the Commission as amended or replaced from time to time.

“**Commission**” means:

- (a) the Essential Services Commission established by the **Essential Services Commission Act 2001**;
- (b) any successor agency that regulates electricity distribution charges; or
- (c) any agency that assumes responsibility for the regulation of electricity distribution charges.

“**connection point**” means a point of supply agreed by a distributor.

“**Current Price Determination**” means the Electricity Distribution Price Determination dated October 2005, as amended in accordance with a decision of the Appeal Panel dated 17 February 2006, and comprising:

- (a) Final Decision Volume 1 – Statement of purpose and reasons; and
- (b) Final Decision Volume 2 – Price Determination.

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“customer” means a person who buys electricity from a retailer.

“declared retailer of last resort event” means the occurrence of an event whereby an existing retailer for customers of a distributor is unable to continue to sell electricity and those customers are transferred to the declared retailer of last resort.

“Department” means the Department of Primary Industries.

“distribution licence” means a licence to distribute or supply electricity issued (or taken to be issued) under the Act.

“distribution system”, in relation to a distributor, means a system of electric lines and associated equipment (generally at nominal voltage levels of 66kV or below) which the distributor uses to distribute or supply electricity.

“distributor” means a person who holds a distribution licence.

“Electricity Customer Metering Code” means the code of that name which is made by the Commission as amended or replaced from time to time.

“End Date” means 31 December 2012 or such later date as is specified by further Order in Council made under section 46D of the Act.

“Excluded Services Guideline” means “Electricity Industry Guideline No. 14 Provision of Services by Electricity Distributors” made by the Commission as amended or replaced from time to time.

“financial failure of a retailer event” means the occurrence of an event whereby a retailer is placed in administration or liquidation, and as a consequence a distributor does not receive revenue which it was otherwise entitled to for the provision of Regulated Services.

“first tier customer” means a customer who buys electricity from its local retailer.

“Industry Steering Committee” or **“ISC”** means the Advanced Metering Infrastructure Industry Steering Committee (formerly known as the Industry Strategy Group) established by the Department to oversight the rollout of remotely read interval meters in Victoria.

“initial regulatory period” means the period commencing on the Start Date and finishing on the End Date.

“interval energy data” means the data that results from the measurement of the flow of electricity in a power conductor where the data is prepared into intervals which correspond to a trading interval or are sub-multiples of a trading interval.

“interval meter” means a meter that records interval energy data.

“local retailer” has the meaning given to that term in the Order in Council dated 11 January 2002 (as amended) made under section 35A of the Act or any replacement order if it defines a “local retailer”.

“manually read interval meter” means an interval meter that is not a remotely read interval meter.

“meter” means a device which measures and records the production or consumption of electrical energy.

“metering installation provision services” means the supply, installation and maintenance of a metering installation.

“metering data” means the data obtained from a metering installation, the processed data or substituted data.

“metering data services” means the collection, processing and storage of, and provision of access to, metering data.

“metering installation” means the assembly of components and/or processes that are controlled for the purpose of metrology or that are to meet the functionality requirements set out in a further Order in Council to be made under section 46D of the Act. The assembly of components may include the combination of several metering points to derive the metering data for a connection point.

“metering point” is the point of physical connection of the device measuring the current in the power conductor.

“metering services” means metering installation provision services and metering data services.

“Metrology Procedure” means the “National Electricity Market Metrology Procedure” made by NEMMCO under the National Electricity Rules as amended or replaced from time to time.

“National Electricity (Victoria) Law” means the provisions applying because of section 6 of the **National Electricity (Victoria) Act 2005**.

“National Electricity Rules” has the meaning given to that term in the National Electricity (Victoria) Law.

“NEMMCO” means National Electricity Market Management Company Ltd (ACN: 072 010 327) or its successor.

“prescribed metering services” has the meaning given to that term in the Current Price Determination (Volume 2).

“Price Determination” means a determination made by the Commission regulating the prices that may be charged by the distributors for the connection to and use of the distribution system of a distributor.

“Pricing Proposal” means, in respect of a distributor, the information provided by the distributor under clause 9.1(b) or 9.2(b) (as applicable).

“Regulatory Accounting Statements” means the Regulatory Accounting Statements which a distributor is required to prepare under “Electricity Industry Guideline No. 3 Regulatory Information Requirements”, and any other applicable guideline, made by the Commission as amended or replaced from time to time.

“regulatory period” means the initial regulatory period or a subsequent regulatory period.

“Regulated Services” means the services referred to in:

- (a) clauses 3(a) and (b) in respect of which the distributor is the responsible person; and
- (b) clause 3(c).

“regulatory year”:

- (a) in respect of the initial regulatory period, means:
 - (i) the period (which may be less than 12 months) commencing on the Start Date and finishing on the immediately following 31 December; and
 - (ii) each 12 month period in the initial regulatory period commencing on 1 January;
- (b) in respect of the first subsequent regulatory period means:
 - (i) each 12 month period within the first subsequent regulatory period commencing on 1 January; and
 - (ii) the remaining period in the first subsequent regulatory period (if any); and
- (c) in respect of each successive subsequent regulatory period, means a 12 month period from 1 January to 31 December or as otherwise determined by the Commission.

“relevant pass through event” means a change in taxes event, a financial failure of a retailer event or a declared retailer of last resort event.

“relevant tax” means any tax imposed by or payable directly or indirectly to any authority of the Commonwealth of Australia (including goods and services tax) but excluding any:

- (a) income tax (or State equivalent income tax), fringe benefits tax or capital gains tax;
- (b) payroll tax;

- (c) fees and charges paid or payable to the Commission for distribution licences or any other membership, contribution or other charge payable to other regulatory bodies in the electricity industry;
- (d) land tax or any other tax on the ownership or occupancy of premises;
- (e) customs and import duty;
- (f) municipal rates, taxes and other charges imposed by local authorities;
- (g) stamp duty, financial institutions duty, bank account debits tax or similar taxes or duties;
- (h) penalties and interest for late payment relating to any tax; or
- (i) any tax that replaces any of the taxes referred to in (a) to (h), where “tax” includes any rate, duty, charge or other like or analogous impost.

For the purposes of this definition, a tax will be deemed to be imposed including where the Act of Parliament has commenced but the obligation to remit the tax will not arise until some future date.

“remotely read interval meter” means an interval meter that meets the functionality requirements set out in a further Order in Council to be made under section 46D of the Act and:

- (a) is designed to transmit metering data to a remote location for data collection; and
- (b) does not, at any time, require the presence of a person at, or near, the meter for the purposes of data collection or data verification (whether this occurs manually as a walk-by reading or through the use of a vehicle as a close proximity drive-by reading),

including, but not limited to, an interval meter that transmits metering data via direct dial-up, satellite, the internet, general packet radio service, power line carrier, or any other equivalent technology.

“responsible person”, in relation to a metering installation for a connection point, means:

- (a) the “responsible person” in respect of that metering installation within the meaning of the National Electricity Rules; or
- (b) if paragraph (a) does not apply, the person responsible for providing metering services to that customer in accordance with the Electricity Customer Metering Code.

“retail licence” means a licence to sell electricity issued under the Act.

“retailer” means a person who holds a retail licence.

“revenue meter” means a meter which is (or is to be) used as the primary source of metering data for the purpose of billing a customer for electricity which is supplied through a distributor’s distribution system.

“second tier customer” means a customer who purchases electricity in its entirety from a person other than its local retailer.

“Start Date” means 31 December 2008, unless such date is changed by further Order in Council made under section 46D of the Act.

“Subsequent Price Determination” means the Price Determination to take effect immediately following the Current Price Determination, and each Price Determination after that.

“subsequent regulatory period” means:

- (a) the period commencing on the date following the End Date until the day immediately preceding the date on which the second Subsequent Price Determination comes into effect;
- (b) the regulatory period for the second, and each successive, Subsequent Price Determination.

“**Tariff Order**” means the Victorian Electricity Supply Industry Tariff Order 2005 made by Order in Council under section 15A of the Act and dated 28 June 2005.

“**trading interval**” means a 30 minute period ending on the hour (Australian Eastern Standard Time) or on the half hour.

“**unmetered connection point**” means a connection point at which it is determined that a meter is not necessary in accordance with schedule 7.2 of the National Electricity Rules.

“**year**” means a calendar year.

2.2 Relevant licensee

Each distributor and retailer that holds a distribution licence or retail licence is a relevant licensee for the purposes of section 46C of the Act and, accordingly, is required to comply with this Order as a condition of its licence.

2.3 Timeframes and targets

(a) The ISC may consider and assess the materiality of issues raised by members that may pose a significant risk to the achievement of timeframes and targets as set out in this Order, including the Start Date, the End Date and the number of remotely read interval meters to be installed in each regulatory year. In accordance with a resolution of the ISC to do so, the ISC may make recommendations to the Minister in relation to amendment or otherwise of the timeframes and targets. Following a review by the Minister, the timeframes and targets included in this Order may be changed by a further Order in Council made under section 46D of the Act.

(b) Clause 2.3(a) does not limit the power of the Governor in Council to vary or revoke this Order.

3. Nature of metering services

Notwithstanding clause 4 or clause 6 of the Current Price Determination (Volume 2), or clause 2 of, and the Attachment to, the Tariff Order, with effect from the Start Date, each of the following services shall be deemed to be an Excluded Service for the purposes of the Tariff Order and the Tariff Order is amended accordingly pursuant to section 15A(2) of the Act:

(a) metering services supplied to first tier customers or second tier customers with annual electricity consumption of 160MWh or less where the electricity consumption of that customer is (or is to be) measured using a revenue meter that is either an accumulation meter or a manually read interval meter;

(b) metering services supplied to first tier customers or second tier customers with annual electricity consumption of 160MWh or less where the electricity consumption of that customer is (or is to be) measured using a revenue meter that is a remotely read interval meter; and

(c) the services described in clauses 7.1 and 8.1 of this Order.

4. Regulated Service charges – initial regulatory period

4.1 Maximum charges

Notwithstanding anything to the contrary in the Current Price Determination or the Excluded Services Guideline, the maximum charges that each distributor may charge for the Regulated Services during each regulatory year of the initial regulatory period are the maximum charges determined by the Commission for each distributor, in accordance with this Order.

4.2 Principles

In determining the maximum charges for the purposes of clause 4.1 in respect of the Regulated Services referred to in clauses 3(a) and (b), the Commission must:

(a) assume that remotely read interval meters are installed by a distributor in accordance with the roll out schedule included in the distributor’s Pricing Proposal for the initial

regulatory period, but also provide an incentive mechanism designed to encourage the installation of remotely read interval meters (which are operational as remotely read interval meters in accordance with the functionality, distributor performance levels and distributor service levels set out in a further Order in Council to be made under section 46D of the Act) in a manner that exceeds the targets set out in this Order;

- (b) determine such charges using a similar methodology to price regulation as the methodology that was taken in the Current Price Determination;
- (c) determine the metering asset base for each distributor by:
 - (i) calculating the opening value for the metering asset base at the Start Date as follows, adjusting for inflation:

$$\text{Opening Metering Asset Base}_{SD} = \text{Opening Metering Asset Base}_{2006} + \text{Capital Expenditure}_{2006-SD} - \text{Regulatory Depreciation}_{2006-SD} - \text{Disposals}_{2006-SD}$$
 Where:
 - Opening Metering Asset Base_{SD} is the opening metering asset base at the Start Date;
 - Opening Metering Asset Base₂₀₀₆ is the opening regulatory asset base set out in Table 13.35 of the current Price Determination (Volume 1);
 - Capital Expenditure_{2006-SD} is actual and forecast capital expenditure between 1 January 2006 and the Start Date;
 - Regulatory Depreciation_{2006-SD} is the regulatory depreciation between 1 January 2006 and the Start Date, applying the annual depreciation set out in the Annexure; and
 - Disposals_{2006-SD} is actual and forecast disposals between 1 January 2006 and the Start Date; and
 - (ii) calculating the opening value for the metering asset base for each subsequent regulatory year of the initial regulatory period using the same approach in subparagraph (i) and reasonable and efficient forecasts of capital expenditure, regulatory depreciation and disposals;
- (d) provide for reasonable and efficient operating and maintenance expenditure required to be incurred in providing the relevant Regulated Services;
- (e) use the same rate of return as the rate of return used in the Current Price Determination, recalculated for the current market conditions for forecast inflation and real risk free rate (with forecast inflation and the real risk free rate to be determined using the same methodology as that used in the Current Price Determination);
- (f) for the purpose of calculating depreciation for capital expenditure only, use asset lives of:
 - (i) 15 years in respect of metering assets;
 - (ii) 7 years in respect of telecommunications systems and IT systems;
- (g) not make any allowance for corporate income tax;
- (h) provide for site costs for each distributor as set out in Table 13.18 (adjusted by reference to the Note to that table) of the Current Price Determination (Volume 1);
- (i) allow for the costs incurred or forecast to be incurred and offset the revenue earned or forecast to be earned by the distributor in respect of prescribed metering services under the Current Price Determination during the period from 1 January 2006 until the Start Date;

- (j) provide for reasonable and efficient costs of installing, commissioning and maintaining the telecommunications and IT systems required to support the remotely read interval meters;
- (k) provide for the costs that the Commission is satisfied have been or will be incurred by the distributor in technology trials of remotely read interval meters, including telecommunications systems, such trials being conducted in accordance with the recommendations of the Industry Steering Committee as agreed to by the Department;
- (l) provide for the costs that the Commission is satisfied have been or will be incurred by the distributor in customer response trials of remotely read interval meters, such trials being conducted in accordance with the recommendations of the Industry Steering Committee as agreed to by the Department;
- (m) provide for the costs (being costs that would not otherwise have been incurred) that the Commission is satisfied have been incurred by the distributor in respect of project management and other preparation for the provision of the Regulated Services described in clause 3(b) not otherwise provided for in paragraphs (j) or (k) or (l);
- (n) provide for the costs (being costs that would not otherwise have been incurred) that the Commission is satisfied have been incurred or will be incurred before the Start Date by the distributor in respect of telecommunications and IT systems required for the provision of the Regulated Services described in clause 3(b) not otherwise provided for in paragraphs (j) or (k) or (l) or (m);
- (o) assume the distributor adopts the functionality, distributor performance levels and distributor service levels (and any associated incentive or penalty scheme) set out in a further Order in Council to be made under section 46D of the Act;
- (p) include a price control formula based on the CPI-X approach;
- (q) determine charges which may differ in respect of the following:
 - (i) single phase single element meter;
 - (ii) single phase single element meter with contactor;
 - (iii) single phase two element meter with contactor;
 - (iv) three phase direct connected meter;
 - (v) three phase direct connected meter with contactor;
 - (vi) three phase current transformer connected meter; and
 - (vii) any other customer or metering class proposed by the distributor and approved by the Commission,provided that the charges may not differ depending on whether the meter is an accumulation meter, a manually read interval meter or a remotely read interval meter;
- (r) to the extent that customer numbers are used in determining the charges, use the customer numbers contained in the rollout schedule included in the distributor's Pricing Proposal;
- (s) provide a mechanism that adjusts for the differences in costs in the event that actual rollover volumes are higher or lower than the rollout schedule included in the distributor's Pricing Proposal for the initial regulatory period as assumed by the Commission under paragraph (a); and
- (t) seek to provide for a smooth price path from the charges imposed for the Regulated Services prior to the Start Date and over the initial regulatory period.

Note:

The forecasts in clauses 4.2(c)(i) and 4.2(i) should be consistent with those in the Current Price Determination.

5. Regulated Service charges – subsequent regulatory periods

5.1 Maximum charges

Notwithstanding anything to the contrary in any Subsequent Price Determination or the Excluded Services Guideline, the maximum charges that each distributor may charge for the Regulated Services during each regulatory year of each subsequent regulatory period are the maximum charges determined by the Commission for each distributor, in accordance with this Order.

5.2 Principles

In determining the maximum charges for the purpose of clause 5.1 for a subsequent regulatory period in respect of the Regulated Services referred to in clauses 3(a) and (b), the Commission must:

- (a) to the extent practicable, determine such charges using a similar methodology to price regulation as the methodology taken by the Commission in the then current Price Determination (in the case of the first subsequent regulatory period) or (in the case of the second and each successive subsequent regulatory period) the methodology taken by the Commission in the Price Determination for the period that corresponds with the second or each successive subsequent regulatory period;

- (b) to the extent relevant:

- (i) determine the metering asset base for each distributor as follows, adjusting for inflation:

$$\text{Opening Metering Asset Base}_{\text{IYSRP}} = \text{Opening Metering Asset Base}_{\text{IYPRP}} + \text{Capital Expenditure}_{\text{PRP}} - \text{Regulatory Depreciation}_{\text{PRP}} - \text{Disposals}_{\text{PRP}}$$

Where:

Opening Metering Asset Base_{IYSRP} is the opening metering asset base at the initial year of the subsequent regulatory period;

Opening Metering Asset Base_{IYPRP} is the opening regulatory asset base for the initial year of the preceding regulatory period as set out in the relevant Determination;

Capital Expenditure_{PRP} is actual and forecast capital expenditure during the preceding regulatory period;

Regulatory Depreciation_{PRP} is the regulatory depreciation set out in the preceding Determination; and

Disposals_{PRP} is actual and forecast disposals in the preceding regulatory period;

- (ii) determine the metering asset base for each distributor for each subsequent regulatory year of the subsequent regulatory period using the same approach in sub-paragraph (i) and reasonable forecasts of capital expenditure, regulatory depreciation and disposals;
- (iii) in the case of the first subsequent regulatory period, to the extent that the actual capital expenditure incurred by a distributor in the initial regulatory period is greater than the forecast capital expenditure for that period, allow for the financing costs associated with that additional capital expenditure to be rolled into the metering asset base of that distributor;
- (iv) provide for reasonable and efficient operating and maintenance expenditure required to be incurred in providing the relevant Regulated Services;
- (v) use the same rate of return as the rate of return used in the then current Price Determination, recalculated for the current market conditions for forecast inflation and real risk free rate (in the case of the first subsequent

regulatory period) or (in the case of the second and each successive subsequent regulatory period) use the same rate of return as the rate of return used in the Price Determination for the period that corresponds with the second or each successive subsequent regulatory period;

- (vi) for the purpose of calculating depreciation, use appropriate depreciation rates having regard to the useful life of the assets;
- (vii) make an allowance for estimated corporate income tax consistent with the then current Price Determination (in the case of the first subsequent regulatory period) or (in the case of the second and each successive subsequent regulatory period) make an allowance for estimated corporate income tax consistent with the Price Determination for the period that corresponds with the second or each successive subsequent regulatory period; and
- (viii) have regard to the need to ensure a fair sharing of the benefits achieved through efficiency gains between customers and the distributors using a similar approach to that used in the then current Price Determination (in the case of the first subsequent regulatory period) or (in the case of the second and each successive subsequent regulatory period) using a similar approach to that used in the Price Determination for the period that corresponds with the second or each successive subsequent regulatory period.

6. Prescribed metering service charges

6.1 Current Price Determination

Notwithstanding anything to the contrary in the Current Price Determination, the maximum charges that each distributor may make for the provision of metering services to unmetered connection points are the prices determined by the Commission for each distributor as follows:

- (a) the prices to 31 December 2008 (if any) are the prices determined in accordance with the Current Price Determination applicable in the year ended 31 December 2007 multiplied by $CPI_{2007-2006}$, where $CPI_{2007-2006}$ means:
 - (i) the Consumer Price Index – All Groups Index for the Eight State Capitals as published by the Australian Bureau of Statistics for the September Quarter of 2007;

divided by

 - (ii) the Consumer Price Index – All Groups Index for the Eight State Capitals as published by the Australian Bureau of Statistics for the September Quarter of 2006; and
- (b) for the period from 1 January 2009 to the commencement of the first Subsequent Price Determination, the prices for each year (or part thereof) in this period are the prices determined under this Order applicable on 31 December of the previous year multiplied by CPI_t , where CPI_t means:
 - (i) the Consumer Price Index – All Groups Index for the Eight State Capitals as published by the Australian Bureau of Statistics for the September Quarter of the previous year;

divided by

 - (ii) the Consumer Price Index – All Groups Index for the Eight State Capitals as published by the Australian Bureau of Statistics for the September Quarter of the year preceding the year referred to in paragraph (i).

6.2 Subsequent Price Determinations

The charges for the provision of metering services to unmetered connection points for each subsequent regulatory period will be regulated in accordance with the relevant Subsequent Price Determination.

7. Exit fee**7.1 Payment of exit fee**

An exit fee, determined by the Commission in accordance with this Order at the time of making a determination under clauses 4.1 or 5.1 must (except as otherwise agreed by the relevant distributor) be paid by a retailer to the distributor where:

- (a) that retailer becomes the responsible person in respect of a metering installation for a customer with annual electricity consumption of 160MWh or less which, immediately prior to that time, included a revenue meter that is a remotely read interval meter that has been previously installed by a distributor in accordance with the functionality, distributor performance levels and distributor service levels set out in a further Order in Council to be made under section 46D of the Act; and
- (b) the responsible person in respect of that metering installation immediately prior to that time was the distributor.

7.2 Principles

The Commission must determine an exit fee payable to each distributor as referred to in clause 7.1 for each regulatory year in such a way that the exit fee enables the distributor to recover in a lump sum which is payable upon the change in responsible person referred to in clause 7.1:

- (a) the reasonable and efficient costs of removing the metering installation for which the distributor was the responsible person; and
- (b) the unavoidable costs (fixed and variable) that a prudent distributor has incurred or would incur as a result of the metering installation for which it was the responsible person being removed prior to the expiry of the life of that metering installation (which, for these purposes, must be assumed to be as set out in clause 4.2(f) or as applied for the purpose of clause 5.2(b)(vi) above, whichever is applicable), including:
 - (i) the written down value of the meter (assuming that depreciation is calculated on a straight line basis);
 - (ii) the proportion referable to that metering installation of the written down value of commissioned telecommunications and IT systems; and
 - (iii) a reasonable rate of return on the written down values determined under paragraphs (i) and (ii), calculated using the rate of return applicable in that regulatory year, determined in accordance with clause 4.2(e) or clause 5.2(b)(v) above.

7.3 Nature of exit fee

For the avoidance of doubt, the exit fee forms part of the charges that may be imposed by the distributor under clause 4.1 or 5.1.

8. Restoration fee**8.1 Payment of restoration fee**

A restoration fee, determined by the Commission in accordance with this Order at the time of making a determination under clause 4.1 or 5.1 must (except as otherwise agreed by the relevant distributor) be paid by a retailer to the distributor where:

- (a) that retailer ceases to be the responsible person in respect of a metering installation for a customer with annual electricity consumption of 160MWh or less which, immediately prior to that time, included a revenue meter that is a remotely read interval meter that has been previously installed by a distributor in accordance with the functionality, distributor performance levels and distributor service levels set out in a further Order in Council to be made under section 46D of the Act; and
- (b) the distributor becomes the responsible person in respect of that metering installation.

8.2 Principles

The Commission must determine a restoration fee payable to each distributor as referred to in clause 8.1 for each regulatory year determined in such a way that the restoration fee:

- (a) reimburses the distributor, in a lump sum which is payable upon the change in responsible person referred to in clause 8.1, for the reasonable and efficient costs of:
 - (i) installing any new metering installation for which the distributor becomes the responsible person; and
 - (ii) activating or reactivating the telecommunications and IT systems which relates to that metering installation; and
- (b) takes into account any exit fee previously paid to the distributor and any potential over-recovery of fixed costs resulting from the distributor becoming entitled to impose charges for Regulated Services described in clause 3(b) as the responsible person.

8.3 Nature of restoration fee

For the avoidance of doubt, the restoration fee forms part of the charges that may be imposed by the distributor under clause 4.1 or 5.1.

9. Process for Determinations

9.1 Initial Regulatory Period

- (a) Each distributor must ensure that the Regulatory Accounting Statements which it prepares, in respect of each period in which the costs of the trials referred to in clause 4.2(k) or clause 4.2(l) are recorded, report those costs separately and include a description in the Regulatory Accounting Statements of how those costs are determined and allocated.
- (b) Each distributor must, on or before the date that is 12 months prior to the Start Date, provide to the Commission:
 - (i) its proposed schedule for the installation of remotely read interval meters for customers with annual consumption of 160MWh or less, which must:
 - (A) specify the proportion of remotely read interval meters the distributor proposes to install in each regulatory year of the initial regulatory period;
 - (B) meet the distributor's obligations set out in clause 14; and
 - (C) use 2006 actual customer numbers reported in the relevant annual tariff approval models as the base for any forecast customer numbers;
 - (ii) its proposed aggregate revenue requirement for the Regulated Services for the initial regulatory period;
 - (iii) the maximum charges that it proposes for the purposes of clause 4.1, which must be derived in accordance with the principles set out in clause 4.2;
 - (iv) its proposed exit fees for the initial regulatory period for the purposes of clause 7.1, which must be derived in accordance with the principles set out in clause 7.2;
 - (v) its proposed restoration fees for the initial regulatory period for the purposes of clause 8.1, which must be derived in accordance with the principles set out in clause 8.2;
 - (vi) the price control formula it proposes should apply for the initial regulatory period; and
 - (vii) detailed supporting information in respect of the derivation of the proposed maximum charges, exit fees and restoration fees including, in particular, information which demonstrates how the proposed maximum charges, exit fees and restoration fees reflect the principles set out in clause 4.2, clause 7.2 and clause 8.2 (respectively).

- (c) In determining the maximum charges for the purposes of clause 4.1, the exit fees for the purposes of clause 7.1 and the restoration fees for the purposes of clause 8.1, the Commission must:
 - (i) have regard to the Pricing Proposals provided by the distributors;
 - (ii) undertake the determination in accordance with the Charter; and
 - (iii) comply with clause 4.2, clause 7.2 and clause 8.2 (respectively).
- (d) If, after a distributor submits its Pricing Proposal and prior to the Commission making a determination under this Order, there is a material change in the functionality, performance levels and/or service levels set out in a further Order in Council to be made under section 46D of the Act, and a distributor requests to amend its Pricing Proposal, then the Commission must provide the distributor with a reasonable opportunity to amend the Pricing Proposal. For the purposes of this clause, the question of reasonableness is to be determined by the Commission, having regard to the nature of the relevant change and the time available to the Commission to consider any amendment to the Pricing Proposal before making a determination.

9.2 Subsequent Regulatory Period

- (a) The Commission must provide reasonable notice (which should not be less than 18 months prior to the end of the then current regulatory period) to the distributors of the date for the submission of information (which should not be less than 12 months prior to the end of the then current regulatory period), and the nature of the information to be submitted, for the purposes of clause 9.2(b) in respect of the relevant subsequent regulatory period.
- (b) Each distributor must, on or before the date notified by the Commission under paragraph (a), provide to the Commission:
 - (i) the maximum charges that it proposes for the purposes of clause 5.1, which must be derived in accordance with the principles set out in clause 5.2;
 - (ii) its proposed aggregate revenue requirement for the Regulated Services for the subsequent regulatory period;
 - (iii) its proposed exit fees for the subsequent regulatory period for the purposes of clause 7.1, which must be derived in accordance with the principles set out in clause 7.2;
 - (iv) its proposed restoration fees for the subsequent regulatory period for the purposes of clause 8.1, which must be derived in accordance with the principles set out in clause 8.2;
 - (v) the price control formula it proposes should apply for the subsequent regulatory period; and
 - (vi) detailed supporting information in respect of the proposed maximum charges, exit fees and restoration fees including, in particular, information which demonstrates how the proposed maximum charges, exit fees and restoration fees reflect the principles set out in clause 5.2, clause 7.2 and clause 8.2 (respectively).
- (c) In determining the maximum charges for the purposes of clause 5.1, the exit fees for the purposes of clause 7.1 and the restoration fees for the purposes of clause 8.1, the Commission must:
 - (i) have regard to the Pricing Proposals provided by the distributor;
 - (ii) undertake the determination in accordance with the Charter or other prevailing principles for regulatory decision making; and
 - (iii) comply with the principles set out in clause 5.2, clause 7.2 and clause 8.2 (respectively).

9.3 Further information

The Commission may request a distributor to provide further information in relation to its Pricing Proposal, and a distributor must comply with any such request, within the timeframe specified by the Commission.

10. Pass Through

10.1 Pass Through

- (a) A distributor may, during a regulatory period, seek the approval of the Commission to pass through to customers of Regulated Services the effect of a relevant pass through event that has a material financial impact on the distributor in accordance with clause 10.2.
- (b) The Commission may, during a regulatory period, require a distributor to pass through to customers of Regulated Services the effect of a relevant pass through event that has a material financial impact on the distributor in accordance with clause 10.3.

10.2 Notification by distributor

- (a) If a relevant pass through event occurs, a distributor may give a statement to the Commission within 60 business days of the relevant pass through event occurring specifying:
 - (i) details of the relevant pass through event concerned;
 - (ii) the date the relevant pass through event took or takes effect;
 - (iii) the estimated financial impact of the relevant pass through event on the distributor;
 - (iv) the pass through amount the distributor proposes in relation to the relevant pass through event and the basis of the amount;
 - (v) the date from and period over which the distributor proposes to charge the pass through amount; and
 - (vi) how the distributor proposes to allocate the pass through amount over that period and between customers of Regulated Services and the price or charging structure that the distributor proposes to use to recover the pass through amount from those customers (being the basis on which the distributor proposes the pass through amount is to apply).
- (b) If the Commission receives a statement under clause 10.2(a), the Commission must decide whether the relevant pass through event specified in the statement occurred, or is continuing, and if the Commission decides that the relevant pass through event occurred, or is continuing, the Commission must decide:
 - (i) the pass through amount (which may be an estimated or actual amount);
 - (ii) the date from and period over which the pass through amount can be charged; and
 - (iii) the basis on which the pass through amount is to apply.
- (c) The Commission must notify the distributor in writing of its decisions in relation to clause 10.2(b).
- (d) If the Commission does not give written notification to the distributor under clause 10.2(c) within 30 business days of receiving a statement from the distributor under clause 10.2(a), on the 31st business day after receiving the statement from the distributor under clause 10.2(a), the Commission is taken to have notified the distributor of its decision under clause 10.2(b) that the pass through amount and the basis on which the pass through amount is to apply are as specified in the statement given by the distributor under clause 10.2(a).

10.3 Negative pass through amount

- (a) If a relevant pass through event occurs and a distributor likely to be affected by the relevant pass through event does not give the Commission a statement under clause 10.2 concerning the relevant pass through event, the Commission may decide on:
 - (i) the pass through amount;
 - (ii) the date from and period over which the pass through amount can be charged; and
 - (iii) the basis on which the pass through amount is to apply.
- (b) Where under clause 10.3(a) the Commission decides on a negative pass through amount, the Commission:
 - (i) must require a distributor to pass through the negative pass through amount on the basis decided by the Commission; and
 - (ii) must notify the distributor in writing of the negative pass through amount, the basis on which the negative pass through amount is to apply and the reasons for the Commission's decision.

10.4 Relevant factors

- (a) In deciding the pass through amount and the basis on which the pass through amount is to apply under clause 10.2 or 10.3, the Commission must ensure that the financial impact on the distributor associated with the relevant pass through event concerned is economically neutral, taking into account:
 - (i) the relative provision of the various Regulated Services to customers of the distributor;
 - (ii) the time cost of money for the period over which the pass through amount is to apply;
 - (iii) the manner in which, and period over which, the pass through amount is to apply;
 - (iv) the financial impact on the distributor associated with the provision of the Regulated Services during the regulatory period directly attributable to the relevant pass through event, and the time at which the financial impact arises;
 - (v) if the relevant pass through event is a change in taxes event, the amount of any change in another relevant tax which, in the Commission's opinion, was introduced as complementary to the change in taxes event concerned;
 - (vi) the financial impact of any other relevant pass through event on the distributor in the provision of the Regulated Services during the regulatory period that takes, or will take, effect before or concurrently with the relevant pass through event concerned (but after the Start Date), and which has not been the subject of a decision by the Commission under clause 10.2 or 10.3;
 - (vii) any pass through amount applied under this clause relating to previous relevant pass through events which resulted in the distributor recovering an amount either more or less than the financial impact on the distributor of those previous relevant pass through events; and
 - (viii) any other facts the Commission considers relevant.

10.5 Application of a pass through amount

- (a) If a distributor has received or is taken to have received a notification from the Commission under clauses 10.2(c), 10.2(d) or 10.3(b), the distributor must promptly notify its customers of:
 - (i) the pass through amount (if any) the Commission has specified, or is taken to have specified, in that notification; and
 - (ii) the date from and period over which the pass through amount is to be applied and the basis on which it is to be applied, as decided by the Commission, or taken to have been decided by the Commission, in that notification.

- (b) A distributor:
 - (i) may apply a positive pass through amount over the period, and on the basis, set out in the notification the distributor has received, or is taken to have received, from the Commission under clauses 10.2(c) or 10.2(d), provided the distributor has given its customers notification in accordance with clause 10.5(a); and
 - (ii) must apply a negative pass through amount over the period, and on the basis, set out in the notification to the distributor from the Commission under clauses 10.2(c), 10.2(d) or 10.3(b), regardless of whether or not the distributor has given notification to its customers in accordance with clause 10.5(a).
- (c) The pass through amount applied under clause 10.5(a) must be:
 - (i) shown separately on each customer's invoice; or
 - (ii) otherwise identified in a manner verified as compliant by the Commission.
- (d) A distributor may only recover from its customers that part of any positive pass through amount that relates to Regulated Services where those services are provided after the distributor:
 - (i) notified its distribution customers under clause 10.5(a); and
 - (ii) started showing or identifying the positive pass through amount as required under clause 10.5(c).

10.6 Information required

- (a) A distributor must make available to the Commission such information as the Commission reasonably requests for the purposes of making a decision under this clause 10.
- (b) If the Commission makes a request under clause 10.6(a), the 30 business day period referred to in clause 10.2(d) ceases running until the information requested by the Commission is provided to the Commission, at which time that period continues to run.

11. Nature of determinations

A determination of the Commission made under this Order in respect of the charges for Regulated Services is a determination for the purposes of the **Essential Services Commission Act 2001** including, without limitation, sections 53, 54 and 55 of that Act.

12. Reopening determinations

- (a) If, at any time after the Commission has made a determination in respect of the charges for Regulated Services, it appears to the Commission that:
 - (i) the determination was made on the basis of information provided by or on behalf of one or more of the distributors to which the determination applies that was false or misleading in a material particular, then the Commission may revoke the determination;
 - (ii) there is a material error in the determination, then the Commission may revoke the determination, but only with the prior written consent of all those distributors to which the determination applies; or
 - (iii) a distributor to which the determination applies is materially adversely affected by the determination as a result of an event beyond the distributor's control which was not contemplated at the time the determination was made and, on balance, the benefits of revoking the determination outweigh the detriment to participants in the Victorian electricity supply industry resulting from revoking the determination, then the Commission may revoke the determination, but only with the prior written consent of all those distributors to which the determination applies.

- (b) If the Commission revokes a determination under clause 12(a), then the Commission may make a new determination in substitution for the revoked determination to apply for the remainder of the period for which the revoked determination was to apply or such longer period as the Commission determines.
- (c) If a new determination is made in substitution for a determination revoked under clause 12(a)(ii), then the new determination must only differ from the revoked determination to the extent necessary to correct the error concerned.
- (d) If a new determination is made in substitution for a determination revoked under clause 12(a)(iii), then the new determination must only differ from the revoked determination to the extent necessary to enable the distributor to pass through to its customers that proportion of the financial effect on the distributor of the event concerned as the Commission considers reasonable in the circumstances by an increase or decrease in the distributor's charges regulated under the revoked determination.

13. Price Determinations and Excluded Services Guideline

This Order prevails over and applies to the exclusion of the Current Price Determination or any Subsequent Price Determination or the Excluded Services Guideline in respect of the regulation of the charges that may be imposed by a distributor for Regulated Services.

14. Remotely read interval meter rollout

14.1 Rollout period

- (a) Subject to clause 14.3, each distributor must use its best endeavours to install a remotely read interval meter (which is operational as a remotely read interval meter in accordance with the functionality, distributor performance levels and distributor service levels set out in a further Order in Council to be made under section 46D of the Act) for all of the metering installations for customers with annual electricity consumption of 160MWh or less for which it is the responsible person on the End Date by that date.
- (b) If a distributor has not installed a remotely read interval meter for all of the metering installations for customers with annual electricity consumption of 160MWh or less for which it is the responsible person by the End Date, then, for the purpose of considering whether the distributor has used its best endeavours to do so, the Commission must take into account:
 - (i) the distributor's actions in relation to the risk of failing to install the relevant meters, including whether the distributor has failed to take any action that could reasonably have been taken to mitigate that risk and whether the distributor has taken or omitted to take any action which has increased that risk;
 - (ii) the distributor's decisions and actions relevant to meeting the requirements of clause 14.1(a) in light of the information that was available to the distributor at the time those decisions and actions were taken; and
 - (iii) any other factors the Commission considers relevant.

14.2 Rollout schedule

- (a) By the commencement of each regulatory year set out in the schedule to this Order, each distributor must forecast the number of metering installations for customers with annual electricity consumption of 160MWh or less for which it will be the responsible person on the End Date, and provide this forecast to the Commission.
- (b) Subject to clause 14.3, each distributor must use its best endeavours to install, by the end of each regulatory year set out in the schedule, the number of remotely read interval meters (each of which is operated as a remotely read interval meter in accordance with the functionality, distributor performance levels and distributor service levels set out in a further Order in Council to be made under section 46D of the Act) specified to be installed by the end of each regulatory year in the schedule.

- (c) If, at the end of a regulatory year set out in the schedule, a distributor has not installed the number of remotely read interval meters specified to be installed by the end of that regulatory year then, for the purpose of considering whether the distributor has used its best endeavours to do so, the Commission must take into account:
 - (i) the distributor's actions in relation to the risk of failing to install the relevant meters, including whether the distributor has failed to take any action that could reasonably have been taken to mitigate that risk and whether the distributor has taken or omitted to take any action which has increased that risk;
 - (ii) the distributor's decisions and actions relevant to meeting the requirements of clause 14.2(b) in light of the information that was available to the distributor at the time those decisions and actions were taken; and
 - (iii) any other factors the Commission considers relevant.

14.3 Existing remotely read interval meters

- (a) The obligations in clauses 14.1 and 14.2 do not apply where a customer with annual consumption of 160MWh or less has a remotely read interval meter at the Start Date, and the metering installations for such customers are to be disregarded for the purpose of the forecasts to be provided by the distributors under clause 14.2(a).
- (b) Where a distributor is the responsible person for a metering installation referred to in paragraph (a), it must install a remotely read interval meter (which is operated as a remotely read interval meter in accordance with the functionality, distributor performance levels and distributor service levels set out in a further Order in Council to be made under section 46D of the Act) to replace a meter that is removed due to a change in the relevant retailer or in accordance with the distributor's ordinary meter replacement cycle.
- (c) Where a retailer is the responsible person for a metering installation referred to in paragraph (a), it must install a remotely read interval meter (which is operated as a remotely read interval meter in accordance with the functionality, retailer performance levels and retailer service levels set out in a further Order in Council to be made under section 46D of the Act) to replace a meter that is removed in accordance with the retailer's ordinary replacement cycle.
- (d) Where a retailer is the responsible person for a metering installation referred to in paragraph (a) and there is a change in retailer resulting in a change in the meter, the retailer who becomes the relevant retailer must (if that retailer becomes the responsible person in respect of that metering installation) install a remotely read interval meter (which is operated as a remotely read interval meter in accordance with the functionality, retailer performance levels and retailer service levels set out in a further Order in Council to be made under section 46D of the Act) to replace the meter that is removed due to such a change.
- (e) Where a retailer is required to install a replacement meter in accordance with clause 14.3(c) or (d) and the retailer is entitled to be the responsible person in respect of that metering installation, the retailer may request the customer's distributor to act as the responsible person in respect of that metering installation in accordance with the National Electricity Rules. Where the customer's distributor becomes the responsible person for a metering installation under clause 14.3(c) or (d), the relevant metering installation must be operated in accordance with the functionality, distributor performance levels and distributor service levels set out in a further Order in Council to be made under section 46D of the Act, and the relevant metering installation will be a metering installation to which this Order applies.

15. Amendment of Instruments**15.1 Electricity Customer Metering Code**

The Commission must, by the Start Date, amend the Electricity Customer Metering Code to provide that the relevant distributor will, for the period from the Start Date to the date which is 12 months after the End Date, be exclusively responsible for providing metering services to first tier customers with annual consumption of 160MWh or less who have a remotely read interval meter, except for any such customers in respect of which a distributor is not the responsible person as at the Start Date.

15.2 Final Decision Volume 2 – Price Determination: Metering Incentive Mechanism

The Commission must, by the Start Date, amend the Final Decision Volume 2 – Price Determination of the Current Price Determination as follows:

- (a) in clause 4.6.4(ii)(a), for ‘31 December 2008’ substitute ‘31 December 2009’;
- (b) in clause 4.6.4(ii)(b), for ‘31 December 2007’ substitute ‘31 December 2008’;
- (c) in clause 4.6.4(ii)(c), for ‘31 December 2007’ substitute ‘31 December 2008’.

16. Determination of annual electricity consumption

For the purposes of this Order, the annual electricity consumption of a customer is to be determined having regard to historical consumption or (if necessary) estimated annual consumption data or consumption data from the loads of similar customers, as outlined for Victoria in the Metrology Procedure.

Schedule**Regulatory year finishing:****Number of remotely read interval meters**

31 December 2009	A number equal to 5% of the most recent forecast under clause 14.2(a).
31 December 2010	A number equal to 25% of the most recent forecast under clause 14.2(a), where such number includes the 5% referred to above.
31 December 2011	A number equal to 60% of the most recent forecast under clause 14.2(a), where such number includes the 25% referred to above.

Annexure**Depreciation schedules (clause 4.2(c))**

(\$m 1/7/2004)	2006	2007	2008	2009	2010
	1/1/2006– 31/12/2006	1/1/2007– 31/12/2007	1/1/2008– 31/12/2008	1/1/2009– 31/12/2009	1/1/2010– 31/12/2010
Alinta AE (formerly AGL Electricity)	0.62	1.88	2.95	4.06	5.27
CitiPower	0.62	2.26	3.90	5.16	6.40
Powercor	0.93	3.57	7.05	10.61	14.18
SP AusNet	0.96	2.73	5.00	7.92	10.85
United Energy Distribution	0.85	2.63	4.72	7.04	9.23

Dated 28 August 2007

Responsible Minister:

PETER BATCHELOR MP

Minister for Energy and Resources

RUTH LEACH

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