



# Victoria Government Gazette

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## Electricity Industry Act 2000

### ADVANCED METERING INFRASTRUCTURE ORDER IN COUNCIL 2015

#### Order in Council

The Governor in Council under sections 15A and 46D of the **Electricity Industry Act 2000** makes the following Order:

#### 1. Purpose

The purpose of this Order is to amend the AMI Cost Recovery Order to:

- (a) better ensure that the costs passed on by distributors to consumers are efficient costs;
- (b) clarify that activities beyond the metering specifications and performance requirements are not cost recoverable;
- (c) make further provision in terms of the AMI Cost Recovery Order's application after 31 December 2015;
- (d) better provide for the process that the Australian Energy Regulator is to follow for applications made pursuant to clause 5L of the AMI Cost Recovery Order; and
- (e) provide for how unpaid rebate amounts payable pursuant to clause 14AAA of the AMI Cost Recovery Order are to be dealt with.

#### 2. Definitions

In this Order:

**AMI Cost Recovery Order** means the Order in Council made on 28 August 2007 under sections 15A and 46D of the **Electricity Industry Act 2000**, as amended from time to time.

#### 3. Commencement

This Order commences on the day it is published in the Government Gazette.

#### 4. Amendments

The AMI Cost Recovery Order is amended in accordance with the Schedule.

Dated 30 June 2015

Responsible Minister:

LILIANA D'AMBROSIO

Minister for Energy and Resources

YVETTE CARISBROOKE  
Clerk of the Executive Council

## SCHEDULE

#### 1. Amendment to clause 2.1

- (a) In clause 2.1 of the AMI Cost Recovery Order, **insert** in their appropriate alphabetical order the following definitions:

‘“**AER**” has the same meaning as it has in the National Electricity (Victoria) Law.’

‘“**AMI Technology**” has the same meaning as it has in a scope.’

‘“**circuit length**” has the same meaning as it has in the *Economic benchmarking RIN For distribution network service providers Instructions and Definitions* dated November 2013 and published by the AER.’

‘“**Cost Allocation Method**” has the same meaning as it has in the National Electricity Rules.’

**SPECIAL**

“**distribution service**” has the same meaning as it has in the National Electricity Rules.’

“**meter density**” means the number of meters subject to regulation under this Order per circuit length.’

“**regulatory control period**” has the same meaning as it has in the National Electricity Rules.’

“**regulatory information instrument**” has the same meaning as it has in the National Electricity (Victoria) Law.’

“**regulatory year**” has the same meaning as it has in the National Electricity Rules.’

“**second Subsequent Price Determination**” means the Subsequent Price Determination for the regulatory control period immediately after the initial regulatory period.’

“**standard control service**” has the same meaning as it has in the National Electricity Rules.’

“**transition charge**” means a charge determined pursuant to clause 5L.’

“**type 5, 6 and smart metering – regulated service**” has the same meaning as it has in the *Final Framework and approach for the Victorian Electricity Distributors Regulatory control period commencing 1 January 2016* dated 24 October 2014 and published by the AER.’

- (b) In clause 2.1 of the AMI Cost Recovery Order for paragraph (b) of the definition of ‘Regulatory Accounting Statements’ **substitute**:

‘(b) for the purposes of the period of the Subsequent Price Determination, the regulatory accounts of the distributor that are prepared in accordance with:

- (i) any relevant regulatory information instrument;
- (ii) the *Electricity distribution network service providers Cost allocation guidelines* dated June 2008 published by the AER as amended from time to time;
- (iii) the *Victorian electricity distribution network service providers Cost allocation guidelines* dated June 2008 published by the AER as amended from time to time; and
- (iv) the principles and policies of the approved Cost Allocation Method of that distributor, as that Method is amended from time to time.’

- (c) In clause 2.1 of the AMI Cost Recovery Order for the definition of ‘Subsequent Price Determination’ **substitute**:

“‘Subsequent Price Determination’ means the Price Determination to take effect immediately following the Current Price Determination, and each Price Determination after that and includes a distribution determination.’

## 2. Amendment to clause 3.2

In clause 3.2 of the AMI Cost Recovery Order:

- (a) In paragraph (b), for ‘clauses; and’, **substitute** ‘clauses;’.
- (b) In paragraph (c), for ‘clause.’, **substitute** ‘clause; and’.
- (c) **Insert** after paragraph (c):
  - ‘(d) a metering service that is regulated by a scope or pursuant to clause 14B.3 continues to be regulated under this Order after the End Date to the extent provided for in that scope or in that clause.’

**3. Amendment to clause 5**

In clause 5 of the AMI Cost Recovery Order:

- (a) Before the note to clause 5.2 (renumbered as 'Note 2') **insert**:  
'Note 1: A distributor may also make an application to the Commission pursuant to clause 5L.'
- (b) In clause 5.7, after 'every application', **insert** '(and all that application's supporting materials)'.

**4. Amendment to clause 5F**

In clause 5F of the AMI Cost Recovery Order:

- (a) In clause 5F.1 for 'A distributor' **substitute** 'Subject to clauses 5F.1A and 5F.1B, a distributor'.
- (b) **Insert** after clause 5F.1A:  
'5F.1B. No notification may be given pursuant to clause 5F.1 after the commencement of the *Advanced Metering Infrastructure Order in Council 2015*'.

**5. Amendment to clause 5I**

In clause 5I of the AMI Cost Recovery Order:

- (a) **Insert** after clause 5I.2(a)(ii):  
'Note: See also clause 14B.3.'
- (b) For clauses 5I.7A and 5I.7B **substitute**:  
'5I.7A. Subject to clause 5I.7AA, for the purposes of clause 5I.7, the expenditure excess is prudent where that expenditure excess reasonably reflects the efficient costs of a business providing the Regulated Services.  
5I.7AA. For the purposes of clause 5I.7 and in any case where an application pursuant to clause 5L is made, the expenditure excess is prudent where the expenditure of the distributor over the entirety of the initial regulatory period reasonably reflects the efficient costs of a business providing the Regulated Services over the entirety of that period.  
5I.7B. For the purposes of the Commission being satisfied that the expenditure excess reasonably reflects the efficient costs:
  - (a) of a business providing the Regulated Services; or
  - (b) of a business providing the Regulated Services over the entirety of the initial regulatory period,the Commission may take into account:
  - (c) where the expenditure excess is a contract cost, whether the contract was let in accordance with a competitive tender process; and
  - (d) the matters set out in clause 5I.8.'
- (c) In clause 5I.8(g), for 'requirement; and' **substitute** 'requirement;'
- (d) In clause 5I.8, after paragraph (g) **insert**:  
'(ga) the matters set out in clauses 5I.8B(b)(ii) and 5I.8B(c); and'
- (e) **Insert** after clause 5I.8:  
'5I.8A. In any case where an application pursuant to clause 5L is made, the matters the Commission must also take into account include the expenditure of a benchmark efficient entity over the entirety of, or any part of, the initial regulatory period.'

5I.8B. For the purposes of clause 5I.8A:

- (a) Benchmark efficient entity:  
In determining what may be or is a benchmark efficient entity the Commission may have regard to (but is not limited to):
  - (i) meter density; and
  - (ii) number of meters subject to regulation under this Order.
- (b) Benchmarking methods:
  - (i) The Commission may make use of either or both category level benchmarking and aggregated category benchmarking;  
Note: See section 2.4.1 of the AER's *Expenditure Forecast Assessment Guideline for Electricity Distribution*, November 2013.
  - (ii) The Commission may have regard to (but is not limited to), both for the benchmark efficient entity and the distributor:
    - (A) capitalisation policies; and
    - (B) any allocation of costs between distribution services that are metering services and distribution services that are not metering services.
- (c) Benchmarking:
  - (i) That a distributor is the only distributor that incurs particular expenditure or engages in a particular activity is not a matter, and is not to be taken as a matter, that prevents or limits the use of benchmarking;
  - (ii) That a benchmark efficient entity might not have incurred particular expenditure or engaged in a particular activity is not a matter, and is not to be taken as a matter, that prevents or limits benchmarking of that entity against a distributor and *vice versa*;
  - (iii) The Commission is not bound to proceed on the basis that the starting point for benchmarking is what a distributor has in fact done but may instead proceed from the starting point of what a hypothetical benchmark efficient entity would have done;
  - (iv) Without limiting clause 5I.8B(c)(iii), the Commission may proceed on the basis that a benchmark efficient entity's remotely read interval meters become logically converted remotely read interval meters at either or both different rates and different times from the rates and times at which the distributor's remotely read interval meters become logically converted remotely read interval meters; and
  - (v) The Commission may disregard (in whole or in part):
    - (A) expenditure with respect to Distribution IT Systems where such systems are required for all customers of a distributor and not just for distribution services that are metering services; and
    - (B) expenditure with respect to Distribution IT Systems where that expenditure has been or is sought to be brought into account as expenditure for the purposes of standard control services.  
Note: For Distribution IT Systems, see also the scope of a distributor.
  - (vi) Clauses 5I.8B(c)(i)–(v) do not limit the matters that the Commission may have regard to when benchmarking.<sup>2</sup>

**6. Amendment to clause 5K**

In clause 5K of the AMI Cost Recovery Order:

- (a) **Replace** the heading with:  
‘**Transition to 2016–20 Subsequent Price Determination – metering asset base and other matters.**’.
  - (b) **Renumber** the existing provision as paragraph (a), with subparagraphs (i) and (ii).
  - (c) In paragraph (a) for ‘For the purposes of’ **substitute** ‘Subject to clause 5L, for the purposes of’.
  - (d) **Insert** after paragraph (a):
    - (b) Subject to this Order, after the End Date Regulated Services are regulated pursuant to the National Electricity (Victoria) Law, the National Electricity Rules and the Subsequent Price Determination. Provided that:
      - (i) exit fees and restoration fees (and the services to which those exit fees and restoration fees applied) continue to be regulated after the End Date on the same basis as they are regulated under this Order;
      - (ii) for the purposes of clause 6.5.6(c) of the National Electricity Rules and despite anything to the contrary in clause 6.5.6(e) of the National Electricity Rules, the AER may also have regard to:
        - (A) the actual and expected operating expenditure during the initial regulatory period of a distributor of, or in relation to, the provision, installation, maintenance and operation of advanced metering infrastructure and associated services and systems; and
        - (B) this Order and any determination made pursuant to this Order;
      - (iii) for the purposes of clause 6.5.7(c) of the National Electricity Rules and despite anything to the contrary in clause 6.5.7(e) of the National Electricity Rules, the AER may also have regard to:
        - (A) the actual and expected capital expenditure during the initial regulatory period of a distributor of, or in relation to, the provision, installation, maintenance and operation of advanced metering infrastructure and associated services and systems; and
        - (C) this Order and any determination made pursuant to this Order; and
      - (iv) for the purposes of a distribution determination with respect to the “type 5, 6 and smart metering – regulated service”, the AER may have regard to:
        - (A) the actual and expected operating expenditure during the initial regulatory period of a distributor of, or in relation to, the provision, installation, maintenance and operation of advanced metering infrastructure and associated services and systems;
        - (B) the actual and expected capital expenditure during the initial regulatory period of a distributor of, or in relation to, the provision, installation, maintenance and operation of advanced metering infrastructure and associated services and systems; and
        - (C) this Order and any determination made pursuant to this Order.
- Note: See also clause 3.2.’.

**7. Amendment to clause 5L**

In clause 5L of the AMI Cost Recovery Order:

- (a) For clause 5L.1 **substitute**:  
‘5L.1 A distributor may make an application that seeks a determination pursuant to this clause. The application must be made no earlier than 30 April 2016 and no later than 31 May 2016.’
- (b) In clause 5L.2 for ‘within 40 business days from receipt of the application’ **substitute** ‘no later than 31 October 2016’.
- (c) **Insert** after clause 5L.2:  
‘Note: Clause 10 provides for the procedure for determinations that the Commission is to follow.’
- (d) In clause 5L.2A for ‘of the year in which the application was made’ **substitute** ‘2016’.
- (e) For clauses 5L.3, 5L.4 and 5L.5 **substitute**:  
‘5L.3. The Commission must determine an amount to be recovered through a transition charge in the regulatory control period immediately after the initial regulatory period, with the transition charge to apply as part of the revenue cap for the “type 5, 6 and smart metering – regulated service” from the year commencing 1 January 2017 and (if the Commission so determines) thereafter in each regulatory year of that regulatory control period.  
5L.4. Subject to clauses 5L.5, 5L.6, 5L.7 and 5L.9, the amount will recover the difference between the future value in 2017 dollars of costs and the future value in 2017 dollars of revenue for the initial regulatory period where:
  - (a) the costs are:
    - (i) for the years commencing 1 January 2009, 2011, 2012 and 2013, the building block costs for those years in the revised charges determinations made by the Commission under clause 5I setting revised charges for 2011, 2013, 2014 and 2015;
    - (ii) for the year commencing 1 January 2010, the building block costs for that year used for the purposes of the 2012–15 initial charges determination;
    - (iii) for the year commencing 1 January 2014, the building block costs for that year determined by the Commission for the purposes of this clause 5L.4, which building block costs must include actual capital expenditure and actual maintenance and operating expenditure for that year determined in accordance with clause 4 (to the extent it is applied by clause 5L.5) and clauses 5I.2 to 5I.10 where 2014 is year  $t-1$ ; and
    - (iv) for the year commencing 1 January 2015, the building block costs for that year determined by the Commission for the purposes of this clause 5L.4, which building block costs must include actual capital expenditure and actual maintenance and operating expenditure for that year determined in accordance with clause 4 (to the extent it is applied by clause 5L.5) and clauses 5I.2 to 5I.10 where 2015 is year  $t-1$ ; and
  - (b) revenue is to be calculated by using the actual revenue figures in the distributor’s Regulatory Accounting Statements for each year of the initial regulatory period.

- 5L.5. For the purposes of clause 5L.4(a):
- (a) The Commission is not limited to, and is not to be taken as limited to, making a determination or calculation on a basis that looks only to the costs in one particular year of the initial regulatory period but may instead, when looking at any one or more years of the initial regulatory period, look to costs over the entirety of the initial regulatory period; and
  - (b) The following provisions of clause 4 apply:
    - (i) Clause 4.1(j) modified by replacing (in clause 4.1(j)(ii)) ‘Statement of Regulatory Intent issued by the AER pursuant to clause 6.5.4 of the National Electricity Rules and as if clause 6.5.4(g) of the National Electricity Rules applied.’ with ‘Rate of Return Guidelines made and published by the AER pursuant to clause 6.5.2(m) of the National Electricity Rules.’;
    - (ii) Clause 4.1(l); and
    - (iii) Clause 4.1(n).
- 5L.6. For the purposes of clause 5L.4(b):
- (a) The Commission is not limited to, and is not to be taken as limited to, making a determination or calculation that looks only to the revenue in one particular year of the initial regulatory period but may instead, when looking at any one or more years of the initial regulatory period, look to revenue over the entirety of the initial regulatory period; and
  - (b) Actual revenue must exclude any revenue not received by a distributor due to a financial failure of retailer event.
- 5L.7. The Commission must reduce the amount that it determines pursuant to clause 5L.4 where:
- (a) the determination it makes pursuant to clause 5L.4(a)(iii) or clause 5L.4(a)(iv) would result in a reduction of the initial metering asset base; and
  - (b) the distributor is, in the regulatory control period immediately after the initial regulatory period, to receive revenue based on that initial metering asset base.
- 5L.8. The reduction required by clause 5L.7 is an amount commensurate with, for each regulatory year of the regulatory control period immediately after the initial regulatory period, the return on capital and depreciation on the reduction of the initial metering base.
- 5L.9. The Commission must increase the amount that it determines pursuant to clause 5L.4 where:
- (a) the determination it makes pursuant to clause 5L.4(a)(iii) or clause 5L.4(a)(iv) would result in an increase in the initial metering asset base; and
  - (b) the distributor is, in the regulatory control period immediately after the initial regulatory period, to receive revenue based on that initial metering asset base.
- 5L.10. The increase required by clause 5L.9 is an amount commensurate with, for each regulatory year of the regulatory control period immediately after the initial regulatory period, the return on capital and depreciation on the increase in the initial metering base.

5L.11. Clauses 5L.3 to 5L.10 do not limit the matters the Commission may have regard to when making its determination.

5L.12. In this clause 5L:

“**initial metering asset base**” means the asset base of Regulated Services as at the End Date.’.

#### 8. Amendment to clause 10

In clause 10 of the AMI Cost Recovery Order after clause 10.1 **insert**:

‘10.1A. In the case of an application made pursuant to clause 5L the Commission must:

- (a) publish the application (and all supporting materials) on a website;  
Note: See also clause 5.7.
- (b) allow not less than 30 business days for submissions on the application;
- (c) consult with any consumer or user group that has in writing, within 14 business days after publication of the application on the website, advised the Commission that they wish to be consulted;
- (d) make and publish a draft determination;
- (e) allow not less than 30 business days for submissions on the draft determination;
- (f) publish all submissions received on the application and on the draft determination on the website;
- (g) hold, if requested to do so, a public forum after the publishing of the draft determination; and
- (h) make and publish a final determination.

Note: Confidentiality is dealt with under Part 4 of the **Essential Services Commission Act 2001**.’.

#### 9. Amendment to clause 11A

In clause 11A of the AMI Cost Recovery Order after clause 11A.1A **insert**:

‘11A.1AA. A distributor must notify retailers of transition charges immediately after the deemed approval or determination of those charges by the Commission.’.

#### 10. Amendment to clause 14AAA

In clause 14AAA of the AMI Cost Recovery Order after clause 14AAA.5 **insert**:

- ‘14AAA.6. (a) If a distributor has not paid the rebate amount to the account holder on or before 30 June 2015 as required by 14AAA.3(c)(iii), an account holder may request the payment of the rebate amount from the distributor.
- (b) The account holder must request payment of the rebate amount on or before 31 December 2015.
- (c) If an account holder makes a request under this clause, the distributor must pay the rebate amount as soon as practicable after receipt of the request.

Note: This amendment does not affect the application of the **Unclaimed Money Act 2008** (Vic.) in the case of any rebate amount that is unpaid under 14AAA.3(b).

14AAA.7. A distributor must publish on its website a notice (**the payment notice**) that:

- (a) account holders who did not receive the rebate amount on or before 30 June 2015 have until 31 December 2015 to request of the distributor payment of the rebate amount; and
- (b) the distributor will pay the rebate amount as soon as practicable after receipt of that request.

14AAA.8. A distributor must maintain the payment notice on its website until 31 December 2015.’



**11. Amendment to clause 14B**

In clause 14B of the AMI Cost Recovery Order after clause 14B.2 **insert:**

‘14B.3. Notwithstanding anything to the contrary in this Order:

- (a) procurement, provision, installation, operation and maintenance of AMI Technology to:
    - (i) provide services beyond those in the most up to date Specifications; or
    - (ii) with the capacity to provide services beyond those in the most up to date Specifications, but only to the extent of that capacity, is an activity outside of scope; and
  - (b) such procurement, provision, installation, operation and maintenance is not an activity that is reasonably required either for the provision of Regulated Services or to comply with a metering regulatory obligation or requirement.’
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Level 2, 1 Macarthur Street  
Melbourne 3002  
Victoria Australia

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Level 5, 460 Bourke Street  
Melbourne 3000  
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**Telephone**

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**Fax**

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**email**

[gazette@bluestargroup.com.au](mailto:gazette@bluestargroup.com.au)

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