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ECONOMIC REGULATION AUTHORITY ACT 2003

**ECONOMIC REGULATION
AUTHORITY
(ELECTRICITY NETWORKS
ACCESS FUNDING)
REGULATIONS 2012**

Economic Regulation Authority Act 2003

Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Terms used

- (1) If a term is given a meaning in the ENA Code, it has the same meaning in these regulations, unless the contrary intention appears in these regulations.
- (2) In these regulations, unless the contrary intention appears — ***allowed period*** means the period referred to in regulation 5(2) or 6(7), as the case requires, or such further period as the ERA may allow;

Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012

r. 3

assessment amount means the total amount payable as specified in a notice of assessment given under regulation 5(1)(b)(i);

core function costs, for a quarter, means costs that —

- (a) are incurred by the ERA in the quarter in connection with performing its functions under the EI Act section 112 and under the ENA Code; and
- (b) cannot be recovered through the imposition of specific charges under these regulations;

EI Act means the *Electricity Industry Act 2004*;

ENA Code means the *Electricity Networks Access Code 2004* established under the EI Act section 104;

ERA means the Economic Regulation Authority established under the ERA Act;

ERA Act means the *Economic Regulation Authority Act 2003*;

prescribed rate, in relation to interest on amounts not paid within an allowed period, means the interest rate that is 5 percentage points higher than —

- (a) the rate quoted on Reuters Screen BBSW as the Bank Bill Reference Rate (Mid Rate) for a one month bill at or about 10 a.m. (Sydney time) on the first day after the allowed period; or
- (b) if a rate is not quoted as described in paragraph (a) — the rate determined by the ERA having regard to comparable indices then available;

quarter means the period of 3 months that begins on 1 July, 1 October, 1 January or 1 April;

specific charge means a charge payable under regulation 6;

standing charge means a charge payable under regulation 4.

***Economic Regulation Authority (Electricity Networks Access Funding)
Regulations 2012***

r. 4

4. Standing charges, liability for and amount of

- (1) If, during any period in a quarter, a network is specified in Schedule 1 and is a covered network, a charge is payable for the network for the quarter in connection with the core function costs for the quarter.
- (2) A charge payable under subregulation (1) for a network for a quarter must be paid by any person who is a service provider in relation to the network during the quarter.
- (3) The amount of the charge payable under subregulation (1) by a person for a network for a quarter is determined in accordance with this formula —

$$S = C \times P \times \frac{D_P}{D_Q}$$

where —

- S is the amount of the standing charge;
- C is the amount of the core function costs for the quarter;
- P is the percentage specified in Schedule 1 for the network;
- D_P is the number of days in the quarter during which —
 - (a) the network is specified in Schedule 1 and is a covered network; and
 - (b) the person is the service provider in relation to the network;
- D_Q is the number of days in the quarter.

5. Standing charges, assessment and payment of

- (1) As soon as is practicable after the end of each quarter the ERA must —
 - (a) assess the standing charges payable by a person for the quarter; and

Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012

r. 6

- (b) give a notice of assessment to the person specifying —
 - (i) the amount of each of those charges and the total amount payable; and
 - (ii) the amount of the core function costs used in calculating those charges; and
 - (iii) the day on which the notice of assessment was issued.
- (2) A person given a notice of assessment must pay the assessment amount to the ERA within 30 days after the day specified in it under subregulation (1)(b)(iii).
- (3) If the person does not pay the assessment amount in full within the allowed period, interest on the outstanding amount is payable to the ERA at the prescribed rate calculated daily.
- (4) If a person given a notice of assessment so requests, the ERA must give the person a written explanation of how the core function costs specified in the notice were calculated and reasonable details of the core functions they relate to.

6. Specific charges, liability for and amount of

- (1) If the ERA performs a function listed in Schedule 2, it may give a person who, under that Schedule, is liable to pay a specific charge for the ERA's performance of the function a notice requiring the person to pay a charge —
 - (a) for the ERA's performance of the function; and
 - (b) for anything the ERA did that was necessary or convenient to be done for or in connection with performing the function.

***Economic Regulation Authority (Electricity Networks Access Funding)
Regulations 2012***

r. 6

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- (2) If under Schedule 2 more than one service provider is liable to pay the specific charge for the performance by the ERA of a function listed in the Schedule, the charge is to be apportioned between them as follows —
- (a) if each of the service providers who are liable is the service provider for a covered network, then —
 - (i) if those covered networks are only some of the covered networks listed in Schedule 1 — each provider is liable for the proportion of the specific charge that is the same proportion as the percentage, specified in Schedule 1, for the provider's network bears to the sum of the percentages, specified in Schedule 1, for all of the networks of which the providers are liable;
 - (ii) otherwise — each provider is liable for the percentage, specified in Schedule 1 for the network, of the specific charge;
 - (b) otherwise — each provider is liable for an equal share of the specific charge.
- (3) A notice given under subregulation (1) must specify —
- (a) the amount of the specific charge; and
 - (b) the day on which the notice was issued.
- (4) The amount of a specific charge is to be an amount equivalent to costs described in subregulation (5) that —
- (a) have been incurred by the ERA; and
 - (b) are directly attributable to the performance of the relevant function or to the doing of anything that was necessary or convenient to be done for or in connection with the performance of the relevant function.

Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012

r. 7

- (5) For the purposes of subregulation (4), the costs are —
 - (a) costs of consultants or contractors engaged by the ERA including accommodation costs, travel costs and equipment costs; and
 - (b) photocopying, mailing, publishing and advertising costs; and
 - (c) costs associated with public consultation conducted under the EI Act or the ENA Code.
- (6) The ERA must provide the person liable to pay a specific charge with an itemised account of the costs covered by the charge if the person so requests.
- (7) A person given a notice under subregulation (1) must pay the specific charge to the ERA within 30 days after the day specified in it under subregulation (3)(b).
- (8) If the person does not pay the specific charge in full within the allowed period, interest on the outstanding amount is payable to the ERA at the prescribed rate calculated daily.

7. ERA document, fee for

- (1) The ERA may require a person who requests a document prepared by or on behalf of the ERA in the performance of a function under the ENA Code to pay a fee for the document.
- (2) The fee is to be calculated by the ERA according to the costs incurred in providing the document but is not in any case to exceed \$100.
- (3) The ERA cannot require the Coordinator of Energy or the Director of Energy Safety (referred to in the *Energy Coordination Act 1994*) to pay a fee under subregulation (1).

***Economic Regulation Authority (Electricity Networks Access Funding)
Regulations 2012***

r. 8

8. Unpaid amounts, recovery of

- (1) The ERA may recover any unpaid assessment amount or specific charge, together with any interest payable under these regulations, in a court of competent jurisdiction as a debt due to the ERA.
- (2) In proceedings under subregulation (1) a certificate —
 - (a) purporting to be signed by the chairman; and
 - (b) specifying an amount as being an assessment amount or a specific charge; and
 - (c) specifying an amount as being interest payable under regulation 5(3) or 6(8); and
 - (d) specifying a person as being liable to pay the specified amounts; and
 - (e) stating that the specified amounts are unpaid,

is, without proof of the appointment of the chairman or of the authenticity of the signature, sufficient evidence of the matters specified or stated.

9. ERA's annual report, matters to be included in

The annual report submitted by the ERA under the *Financial Management Act 2006* section 61 must include details of the following matters in respect of the financial year to which the annual report relates —

- (a) the total amount of standing charges for each person;
- (b) the total amount of specific charges for each person.

***Economic Regulation Authority (Electricity Networks Access Funding)
Regulations 2012***

Schedule 1 Percentages for calculating standing charges

Schedule 1 — Percentages for calculating standing charges

[r. 4]

Item	Network	Percentage
1.	The network referred to in the ENA Code s. 3.1	100%

**Economic Regulation Authority (Electricity Networks Access Funding)
Regulations 2012**

Functions for which specific charges are payable **Schedule 2**

Schedule 2 — Functions for which specific charges are payable

[r. 6]

Item	ERA's functions under the ENA Code for which specific charge payable	Person liable to pay specific charge for ERA's performance of the functions
1.	Functions under Subchapters 4.1 and 4.2 and Chapter 5 in relation to a proposed access arrangement	Service provider that submits the proposed access arrangement
2.	Functions under Subchapter 4.3 and ss. 6.25 to 6.28 in relation to an access arrangement	Service provider of the covered network to which the access arrangement relates
3.	Functions under ss. 4.55 to 4.59 in relation to a covered network	Service provider of the covered network
4.	Functions under ss. 4.64 to 4.68 in relation to a covered network	Service provider of the covered network
5.	Functions under ss. 6.33 to 6.37 in relation to a covered network	Service provider of the covered network
6.	Functions under s. 6.53 in relation to a proposed modified test	Service provider who proposes the modified test
7.	Functions under ss. 6.61 to 6.63 in relation to a covered network	Service provider of the covered network
8.	Functions under Subchapter 6.3 in relation to an application by a service provider	Service provider concerned
9.	Functions under Chapter 8 in relation to price lists	Service provider that submits the price lists
10.	Functions under Chapter 9 in relation to a service provider	Service provider concerned
11.	Functions under Subchapter 10.2 in relation to an access dispute	The parties to the dispute in equal shares

**Economic Regulation Authority (Electricity Networks Access Funding)
Regulations 2012**

Schedule 2 Functions for which specific charges are payable

Item	ERA's functions under the ENA Code for which specific charge payable	Person liable to pay specific charge for ERA's performance of the functions
12.	Functions under Subchapter 10.3 in relation to a major augmentation report	Service provider that submits the report
13.	Functions under Chapter 11 in relation to a service provider	Service provider concerned
14.	Functions under Chapter 12 in relation to proposed technical rules submitted by a service provider	Service provider concerned
15.	Functions under Chapter 12 in relation to draft technical rules for a covered network	Service provider of the covered network
16.	Functions under s. 12.26 in relation to a deadlock over the technical rules proposed or drafted for, or applying to, a network	Service provider of the network
17.	Functions under s. 12.38 in relation to notice provided by a service provider	Service provider concerned
18.	Functions under ss. 12.41 to 12.44 and 12.47 in relation to an application made under s. 12.40	Service provider making the application
19.	Functions under ss. 12.45 to 12.47 in relation to an application made under s. 12.45	Person making the application
20.	Functions under ss. 12.50 to 12.54 in relation to a proposal, made under s. 12.50, to amend technical rules	Service provider of the network to which the technical rules apply
21.	Functions under ss. 12.61 to 12.62 in relation to model technical rules	Service provider of each covered network to which the model technical rules apply

**Economic Regulation Authority (Electricity Networks Access Funding)
Regulations 2012**

Functions for which specific charges are payable **Schedule 2**

Item	ERA's functions under the ENA Code for which specific charge payable	Person liable to pay specific charge for ERA's performance of the functions
22.	Functions under ss. 13.6 to 13.10 in relation to an associate contract, or a deemed access contract, to which a service provider is a party	Service provider concerned
23.	Functions under ss. 13.12 to 13.28 in relation to ringfencing rules	Service provider of each network to which the ringfencing rules will or do apply
24.	Functions under ss. 13.29 to 13.32 and 13.34 to 13.36, in relation to an exemption from Chapter 13	Service provider applying for the exemption or to which the exemption applies
25.	Functions under ss. 13.33, 13.34 and 13.35, in relation to revoking an exemption from Chapter 13	Person applying for the revocation
26.	Functions under ss. 13.37 and 13.38 in relation to a service provider's ringfencing compliance procedures	Service provider concerned

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.