

1995—No. 586

ELECTRICITY ACT 1945—REGULATION

(Electricity (Amalgamation of Electricity Distributors) Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Electricity Act 1945, has been pleased to make the Regulation set forth hereunder.

M R Egan, MLC
Minister for Energy.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Electricity (Amalgamation of Electricity Distributors) Regulation 1995.

Commencement

2. This Regulation commences on 1 October 1995.

Definitions

3. (1) In this Regulation:

“**date of amalgamation**” means 1 October 1995;

“**former distributor**” means an electricity distributor that was dissolved on the date of amalgamation by proclamation under section 6A of the Act, and includes an electricity distributor whose dissolution by such a proclamation has not yet taken effect;

“**new distributor**” means an electricity distributor that was created on the date of amalgamation by proclamation under section 6A of the Act;

“the Act” means the Electricity Act 1945;

“transfer order” means:

- (a) an order under section 6A or 6FB of the Act by which staff, assets, rights or liabilities of an electricity distributor are transferred to some other person or body; or
- (b) an order under section 6B of the Act by which staff, assets, rights or liabilities of Tenterfield Council are transferred to some other person or body.

(2) For the purposes of this Regulation, a new distributor succeeds a former distributor if its distribution district includes the whole or any part of the former distributor’s distribution district.

PART 2—DISTRIBUTION DISTRICTS

Distribution district of Energy South

4. (1) The part of Wakool referred to in the description of Energy South’s distribution district in Schedule 7 to the Act is such part of Wakool as is illustrated as being within that distribution district by the map marked “Energy South—Distribution District”, copies of which are deposited in the offices of the Department of Energy.

(2) The part of Windouran referred to in the description of Energy South’s distribution district in Schedule 7 to the Act is such part of Windouran as is illustrated as being within that distribution district by the map marked “Energy South—Distribution District”, copies of which are deposited in the offices of the Department of Energy.

Distribution district of Far West Energy

5. (1) The part of Wakool referred to in the description of Far West Energy’s distribution district in Schedule 7 to the Act is such part of Wakool as is illustrated as being within that distribution district by the map marked “Far West Energy—Distribution District”, copies of which are deposited in the offices of the Department of Energy.

(2) The part of Windouran referred to in the description of Far West Energy’s distribution district in Schedule 7 to the Act is such part of Windouran as is illustrated as being within that distribution district by the map marked “Far West Energy—Distribution District”, copies of which are deposited in the offices of the Department of Energy.

(3) The part of the unincorporated area referred to in the description of Far West Energy's distribution district in Schedule 7 to the Act is the whole of that area, excluding such part of that area as is within the distribution district of NorthPower Energy.

Distribution district of MidState Energy

6. The part of Merriwa referred to in the description of MidState Energy's distribution district in Schedule 7 to the Act is such part of Merriwa as was within the distribution district of Ulan Electricity, as it was immediately before the date of amalgamation.

Distribution district of NorthPower Energy

7. (1) The part of Merriwa referred to in the description of NorthPower Energy's distribution district in Schedule 7 to the Act is such part of Merriwa as was within the distribution district of Shortland Electricity, as it was immediately before the date of amalgamation.

(2) The part of the unincorporated area referred to in the description of NorthPower Energy's distribution district in Schedule 7 to the Act is such part of that area as includes:

- (a) Western Land Portions WL 3486, WL 3487 and WL 3488 in the County of Fitzgerald; and
- (b) the County of Ularara (Western Land Portions WL 1056, WL 1059, WL 1062, WL 1063 and WL 3069 excepted); and
- (c) the Counties of Delalah and Thoulcanna.

PART 3—TRANSITIONAL PROVISIONS

Appointment of reform facilitators

8. (1) Pending the appointment of a board of directors, the Minister may appoint a reform facilitator for an electricity distributor.

(2) The Minister may, at any time, remove a person from office as reform facilitator.

(3) A reform facilitator is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

(4) A reform facilitator for an electricity distributor has all of the functions of the board of directors for the electricity distributor.

(5) Section 7R of the Act applies to a reform facilitator in the same way as it applies to a director of an electricity distributor.

Staff, assets, rights and liabilities of former distributors

9. (1) This clause applies to a former distributor in respect of any of whose staff, assets, rights or liabilities a transfer order has yet to be made.

(2) The dissolution of a former distributor to which this clause applies does not have effect until all of its staff, assets, rights and liabilities have been transferred to some other person or body and, subject to any agreement or direction under this clause, the former distributor may continue to deal with them as if the proclamation by which it has been dissolved had not been made.

(3) The staff and assets of a former distributor to which this clause applies (being staff and assets in respect of which a transfer order has yet to be made) may be used by the new distributor or new distributors that have succeeded the former distributor:

- (a) in accordance with any agreement in force between the former distributor and the new distributor or new distributors; or
- (b) to the extent to which no such agreement is in force, in accordance with any directions given by the Minister.

(4) For the purpose of enabling a transfer order to be made in relation to the staff, assets, rights and liabilities of the former distributor, the former distributor and the new distributor or new distributors must prepare a report identifying:

- (a) the staff, assets, rights and liabilities in respect of whose transfer they are in agreement; and
- (b) the staff, assets, rights and liabilities in respect of whose transfer they are not in agreement.

(5) The report is to be furnished to the Minister by 31 December 1995.

(6) When making a transfer order, the Minister must have regard to, but is not bound by, the recommendations contained in any such report.

(7) Nothing in this clause prevents the Minister from making a transfer order before such a report is prepared or furnished.

Staff, assets, rights and liabilities of Tenterfield Council

10. (1) This clause applies to the staff, assets, rights and liabilities of Tenterfield Council:

- (a) that, immediately before the date of amalgamation, were used by the Council in its exercise of the functions of an electricity distributor under section 6B of the Act; and
- (b) that are staff, assets, rights or liabilities in respect of which a transfer order has yet to be made.

(2) Any staff or assets to which this clause applies may be used by NorthPower Energy:

- (a) in accordance with any agreement in force between Tenterfield Council and NorthPower Energy; or
- (b) to the extent to which no such agreement is in force, in accordance with any directions given by the Minister.

(3) For the purpose of enabling a transfer order to be made in relation to the staff, assets, rights and liabilities to which this clause applies, Tenterfield Council and NorthPower Energy must prepare a report identifying:

- (a) the staff, assets, rights and liabilities in respect of whose transfer they are in agreement; and
- (b) the staff, assets, rights and liabilities in respect of whose transfer they are not in agreement.

(4) The report is to be furnished to the Minister by 31 December 1995.

(5) When making a transfer order, the Minister must have regard to, but is not bound by, the recommendations contained in any such report.

(6) Nothing in this clause prevents the Minister from making a transfer order before such a report is prepared or furnished.

Electricity distributors exercising water supply functions

11. (1) For the purpose only of the exercise of the water supply functions conferred by section 6FB of the Act:

- (a) the reference in subsection (1) (a) of that section to Northern Riverina Electricity is taken to be a reference to Energy South; and
- (b) the reference in subsection (1) (c) of that section to Southern Riverina Electricity is taken to be a reference to Energy South; and
- (c) the distribution district of Energy South is taken to be the same as the combined distribution districts of Northern Riverina Electricity and Southern Riverina Electricity, as they were immediately before the date of amalgamation.

(2) For the purpose only of the exercise of the water supply functions conferred by section 6FB of the Act:

- (a) the reference in subsection (1) (b) of that section to Oxley Electricity is taken to be a reference to NorthPower Energy; and
- (b) the distribution district of NorthPower Energy is taken to be the same as the distribution district of NorthPower, as it was immediately before the date of amalgamation.

Conditions of supply of electricity

12. (1) The conditions on which electricity is to be supplied to a person by a new distributor (including conditions as to tariffs and charges) are to be the same as those on which electricity was supplied to that person by a former distributor immediately before the date of amalgamation.

(2) This clause has effect until new conditions of supply are established in accordance with the Act.

NOTES

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EXPLANATORY NOTE

The object of this Regulation is to make provision with respect to the amalgamation of electricity distributors under the Electricity Act 1945. The Regulation deals with the following matters:

- (a) the definition of those parts of local government areas and the unincorporated area that are within the distribution districts of the new electricity distributors (Part 2);
- (b) the appointment of interim reform facilitators (clause 8);
- (c) the transfer of staff, assets, rights and liabilities of former distributors and Tenterfield Council (which previously exercised the functions of an electricity distributor) to new distributors (clauses 9 and 10);
- (d) the updating of references in the Act to electricity distributors exercising water supply functions (clause 11);
- (e) the continuation of existing conditions of supply of electricity (clause 12);
- (f) other formal matters (Part 1).

This Regulation relates to matters of a machinery nature and matters of a savings or transitional nature.

This Regulation is made under the Electricity Act 1945, including section 37 (the general regulation making power) and sections 6 and 6A.
