

Utilities (Technical Regulation) (Regulated Utility Coordination Code) Approval 2021

Disallowable instrument DI2021-212

made under the

Utilities (Technical Regulation) Act 2014, section 14 (Technical codes—approval)

1 Name of instrument

This instrument is the *Utilities (Technical Regulation) (Regulated Utility Coordination Code) Approval 2021*.

2 Commencement

This instrument commences on the day after it is notified.

3 Approval

I approve the Regulated Utility Coordination Code 2021 (the Code) as set out in the schedule.

4 Public access

Electronic copies of the Code are available on the Access Canberra website at <https://www.accesscanberra.act.gov.au/s/article/utilities-technical-regulation-tab-related-resources>. No charge will apply.

The Code is available for inspection upon request by the public between 8:30am and 4:30pm, from Monday to Friday except for public holidays, at the Access Canberra Land, Planning and Building Services Shopfront at 8 Darling Street, Mitchell. Please contact the Access Canberra Land, Planning and Building Services Shopfront on the details below for more information:

Phone 6207 1923

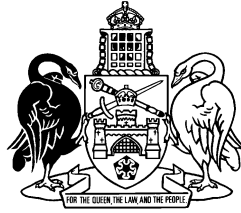
Email: acepdcustomerservices@act.gov.au

5 Revocation

This instrument revokes the *Utilities (Technical Regulation) (Regulated Utility Coordination Code) Approval 2016* (DI2016-20).

Shane Rattenbury MLA
Minister for Water, Energy and Emissions Reduction

12 July 2021



Australian Capital Territory

Regulated Utility Coordination Code

A technical code made under section 14 of the

Utilities (Technical Regulation) Act 2014

June 2021

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1 INTRODUCTION

1.1 Technical Codes

- (1) The Regulated Utility Coordination Code (Code) is a technical code under part 3 of the *Utilities (Technical Regulation) Act 2014* (ACT) (the Act).

1.2 Regulated Utility to Comply with Technical Codes

- (1) Under section 14 of the Act, the Minister may approve a technical code as recommended by the technical regulator. If a regulated utility fails to comply with this Code and is negligent about whether this Code is complied with, the offence provisions under section 16 of the Act may apply.

2 PURPOSE AND APPLICATION OF THIS CODE

2.1 Purpose

- (1) The purpose of this Code is to clarify the responsibility of regulated utilities and to facilitate coordination amongst those regulated utilities in relation to:
 - (a) each regulated utility network; and
 - (b) any light rail regulated utility network.

2.2 Application

- (1) This Code applies to regulated utilities under the Act.
- (2) The *Utilities (Technical Regulation) (Light Rail—Regulated Utility Service) Regulation 2016* prescribes that a light rail utility service is a regulated utility service for the Act.

2.3 Effect of Prescription of Regulated Utility

- (1) A light rail regulated utility service prescribed under section 10 of the Act is subject to the obligations, rights and entitlements under the Act, unless otherwise limited by a regulation, operating certificate, direction or determination of the technical regulator.
- (2) Regulated utilities that provide prescribed regulated utility services must exercise functions to protect networks and facilities under part 5 of the Act. Part 5 of the Act includes criminal offences that apply to persons who unlawfully interfere with regulated utility networks and facilities.

3 DICTIONARY

- (1) The dictionary at the end of this Code is part of this Code.

4 REGULATED UTILITY COORDINATION

- (1) In this clause, **proposing regulated utility** means a regulated utility whose design, construction, commission, testing, commissioning, operation, maintenance, augmentation and expansion, affects or could affect the existing or future design, construction, commission, operation or maintenance of another regulated utility service.
- (2) In this clause, **affected regulated utility** means a regulated utility that is or could be affected by the proposal of a proposing regulated utility.

4.1 Coordination among regulated utilities

- (1) If a proposing regulated utility proposes the design, construction, testing, commissioning, operation, maintenance, augmentation and expansion, of its regulated utility network or any other works (collectively the **relevant works**) that affects or could affect the approved design or existing or future construction, commissioning, operation or maintenance of another regulated utility network, the proposing regulated utility must:
 - (a) before undertaking, permitting or otherwise facilitating any of the relevant works, notify the affected regulated utility in writing of the relevant works; and
 - (b) not undertake, permit or otherwise facilitate the relevant works until the affected regulated utility and proposing regulated utility (the **relevant utilities**) have agreed on the undertaking of the relevant works, or a determination has been issued under clause 4.2.
- (2) If an affected regulated utility is of the opinion that a proposing regulated utility's relevant works affects or could affect the approved design or existing or future construction, testing, commissioning, operation, maintenance, augmentation and expansion, of its own regulated utility network then:
 - (a) the affected regulated utility must notify the proposing regulated utility and the technical regulator in writing of its concerns with the relevant works as soon as practicable in the circumstances; and
 - (b) the relevant utilities must meet as soon as possible to discuss the relevant works and attempt to agree on resolutions to any concerns with the relevant works as raised by the affected regulated utility (where such agreement may include the implementation of asset protection zones).
- (3) For the purposes of determining whether relevant works affect or could affect the approved design, or existing or future construction, testing, commissioning, operation, maintenance, augmentation and expansion, of another regulated utility network, regard must be had to any policy or procedure established and published by the affected regulated utility prior to receiving notice of the relevant works that sets out any of the following:
 - (a) procedures that need to be followed by third parties in order to obtain

clearance to undertake works that are proximate to or may otherwise affect the relevant regulated utility network;

- (b) precautions that must be taken when working on, near or adjacent to the relevant regulated utility network;
- (c) any control or exclusion zones that apply to works near, or adjacent to, the relevant regulated utility network; and
- (d) relevant criteria that would prohibit work within established control or exclusion zones.

4.2 Technical Regulator's intervention

- (1) If the proposing regulated utility and the affected regulated utility do not reach agreement under clause 4.1 within 30 working days from the written notification under subclause 4.1(1)(a) or 4.1(2)(a), the proposing regulated utility and/or the affected regulated utility may seek a recommendation from the technical regulator in writing, by notifying the technical regulator of:
 - (a) the details of the proposal by the proposing regulated utility;
 - (b) the details of the affected regulated utility service; and
 - (c) the issues that are not agreed between the proposing regulated utility and the affected regulated utility.
- (2) Once the proposing regulated utility and/or the affected regulated utility seek a recommendation from the technical regulator as contemplated under subclause 4.2(1), the technical regulator must review the relevant proposal from the proposing regulated utility and its effect on the existing affected regulated utility network.
- (3) After the review of the relevant proposal, the technical regulator must give a recommendation in writing to both the proposing regulated utility and the affected regulated utility within 30 working days from the notification in subclause 4.2(1).
- (4) Within 15 working days of receiving the technical regulator's recommendation under clause 4.2(3), the proposing regulated utility and the affected regulated utility must either
 - (a) adopt the technical regulator's recommendation, and notify the technical regulator in writing of such adoption; or
 - (b) notify the technical regulator in writing that they cannot agree on the adoption of the technical regulator's recommendation, and either or both of the parties may submit to the technical regulator a modification of the technical regulator's recommendation in writing.

- (5) Within 30 working days from the date of a modification in subclause 4.2(4)(b), the technical regulator must give a determination to the proposing regulated utility and the affected regulated utility in relation to the relevant works proposed under subclause 4.2(1)(a)
- (6) The proposing regulated utility and the affected regulated utility must comply with any and all of the technical regulator's determinations under subclause 4.2(5).
- (7) The technical regulator may charge the proposing regulated utility and/or the affected regulated utility seeking a recommendation from the technical regulator on a cost recovery basis.

DICTIONARY

- (1) **Act** means the *Utilities (Technical Regulation) Act 2014*.
- (2) **approved design** means a design for the construction of a regulated utility network that has been approved under either or both the *Planning and Development Act 2007* (ACT) or the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth), as required.
- (3) **asset protection zone** means an area where any or all of the network assets of the regulated utility are protected from interference and must not be interfered with by network assets of other regulated utilities.
- (4) **light rail regulated utility** means a regulated utility that provides a regulated utility service prescribed by the *Utilities (Technical Regulation) (Light Rail—Regulated Utility Service) Regulation 2016* under section 10 of the Act. Under the Regulation, a light rail regulated utility is a person who provides a service that is a light rail regulated utility service. A light rail regulated utility service is the supply of electricity from a light rail regulated utility network.
- (5) **light rail regulated utility network** means infrastructure that consists of: an electricity network to supply power to rolling stock and associated infrastructure; substations and facilities to supply and regulate power to the network; and any electrical zone related to the effect of stray current or the management of the effect of electrical current, such as cathodic protection. For the avoidance of doubt, it includes rail tracks but does not include rolling stock.
- (6) **Minister** means the Minister responsible for the Act.
- (7) **operating certificate** means a certificate under part 6 of the Act.
- (8) **prescribed regulated utility service** means a regulated utility service prescribed under section 10 of the Act.
- (9) **regulated utility** is as defined under part 2 of the Act.
- (10) **technical code** means a code approved by the Minister under part 3 of the Act.
- (11) **technical regulator** is as defined under part 9 of the Act.
- (12) **working day** means a day that is not a Saturday, Sunday or a public holiday in the Australian Capital Territory.