

Utilities Exemption 2012 (No 1)

Disallowable Instrument DI2012–146

made under the

Utilities Act 2000, Section 22 (Exemption)

EXPLANATORY STATEMENT

The *Utilities Act 2000* (the Act), at section 22, provides that the Minister may, by the making of a disallowable instrument, exempt a person from the requirement for a licence in relation to provision of a utility service. The instrument of exemption may include compliance conditions to which the exemption is subject.

Essential Energy (formerly Country Energy) provides electricity distribution and connection services (within the meaning of sections 6(a) and (b) of the *Utilities Act 2000*) as part of its distribution network along the ACT-NSW border. Essential Energy is a NSW government state owned corporation, established under section 7 of the *Energy Services Corporations Act 1995* (NSW). The part of the Essential Energy network located within the ACT is relatively small with less than 20 connections.

As the balance of this network exists in New South Wales (NSW) and Essential Energy is required to comply with NSW laws and requirements, it is considered inappropriate and inefficient to subject the small part of the network located in the ACT to the full extent of the *Utilities Act 2000*. However, under this exemption Essential Energy will still be required to demonstrate technical compliance with the ACT Management of Electricity Network Assets Code. Further it should be noted that this network is also separately required to comply with consumer protections under *National Energy Retail Law (ACT) Regulation 2012*. Collectively, these requirements will ensure that ACT customers on this network continue to be covered by the appropriate technical and non technical regulatory requirements.

This instrument grants Essential Energy an exemption under section 22 of the Act from having to hold a licence to provide the following utility services:

- a) the distribution of electricity through an electricity network; and
- b) an electricity connection service

The exemption is granted on the basis that Essential Energy complies with the conditions set out in the instrument.

Specifically, the conditions relate to:

- a) compliance with appropriate ACT technical standards; and
- b) an obligation to connect customers to its network.

Under the *National Energy Retail Law (ACT) Regulation 2012*, Essential Energy is required to comply with the *National Energy Retail Law (NSW)* in relation to the supply of electricity to premises in the ACT connected to its distribution system. Under section 17(3) of the *National Energy Retail Law (ACT) Act 2012*, the *National Energy Retail Law (NSW)* will have the effect of Territory law in relation to its application to Essential Energy into the ACT.

Section 66 of the *National Energy Retail Law (NSW)* compels distributors to provide customer connection services to a customer who requests them. Until such time as NSW commences the *National Energy Retail Law (NSW)* (and so making Essential Energy subject to it), it is appropriate include an obligation to connect to ensure new customers seeking to connect to Essential Energy's network are able to do so.

The nature of this obligation is limited to customers, as that is defined in the *National Energy Retail Law (ACT)*, section 5.

The condition will expire on the commencement of *National Energy Retail Law (NSW)*. At that time Essential Energy will need to commence with not only the *National Energy Retail Law (NSW)* which but also the new national connections framework located in the National Electricity Law, both of which address connections to a distributor's network.

As is the case with all exemptions granted under section 22 of the Act, this exemption, the operations of Essential Energy and circumstances affecting its operations (such as changes in NSW laws) will be monitored to ensure the validity and currency of this exemption.

The determination takes effect the day after notification.