

Utilities (Electricity Feed-in Code) Determination 2012

Disallowable instrument DI2012–154

made under the

Utilities Act 2000, s 59 (Determined codes) and s 63 (Public access)

EXPLANATORY STATEMENT

Purpose of Electricity Feed-in Code

The Electricity Feed-in Code (the Code) is an industry code determined by the Independent Competition and Regulatory Commission (the Commission) under the *Utilities Act 2000* (the Utilities Act). Its purpose is to set out practices and standards for the operation of the scheme for feed-in from renewable energy generators to the electricity network established under the *Electricity Feed-in (Renewable Energy Premium) Act 2008* (the Electricity Feed-in Act).

Legislative Provisions — Industry Codes

The Utilities Act provides a regulatory framework for utilities in the ACT. Section 21 of the Utilities Act provides that a person must not provide a utility service except in accordance with a licence. Licences are subject to a number of conditions with which utilities are required to comply. Section 25 of the Utilities Act requires all licensees to comply with any relevant industry or technical codes.

On 1 July 2012 the National Energy Customer Framework (NECF) commenced in the ACT. The Utilities Act was amended by the *National Energy Retail Law (Consequential Amendments) Act 2012* to insert a new section 56A that allows the Commission to determine that an industry code applies to a NERL retailer if the Commission is satisfied on reasonable grounds that it is appropriate for the code to apply to the retailer.

The Commission has determined that the Electricity Feed-in Code applies to NERL retailers authorised to supply electricity.

Provisions relating to industry codes are set out in Part 4 of the Utilities Act. An industry code ‘may set out practices, standards and other matters about the provision of a utility service’.

Section 59 of the Utilities Act provides for industry codes to be determined by the Commission. The Commission may determine an industry code if it has consulted with the Minister and the Minister responsible for technical regulation and is satisfied

that the code is not inconsistent in material respects with another industry code or a technical code; and it is necessary or convenient to determine the code.

Section 60 of the Utilities Act sets out the public consultation requirements for industry codes to be followed unless the Commission is satisfied under section 61 that “the variation is unlikely to adversely affect anyone and would not materially alter the code”.

Under section 62 of the Utilities Act, an industry code determined under section 59 of the Act is a disallowable instrument.

Section 63 of the Utilities Act sets out a number of requirements relating to public access to industry codes.

Legislative Provisions — Electricity Feed-in Scheme

A scheme for feed-in from renewable energy generators to the electricity network has been established in the ACT under Electricity Feed-in Act.

The Electricity Feed-in Act provides for licence conditions for electricity distributors licensed to distribute electricity through an electricity network and NERL retailers authorised to supply electricity from the network.

Section 6(2) of the Electricity Feed-in Act provides that:

It is a condition of the electricity distributor’s licence that the distributor must, on application by an eligible entity—

- (a) connect a renewable energy generator to the distributor’s network to enable electricity generated by the generator to be supplied to the network; and
- (b) reimburse the NERL retailer that supplies electricity to the eligible entity’s premises the difference between—
 - (i) the amount payable under subsection (3) for electricity generated by the generator to be supplied to the network; and
 - (ii) the normal cost of that electricity; and
- (c) pass on to the eligible entity the additional metering costs in relation to electricity generated by the generator.

Section 6(3) of the Electricity Feed-in Act provides that:

The NERL retailer must, on application by an eligible entity, pay the eligible entity, in accordance with section 8, for the total amount of electricity generated by the renewable energy generator on or after the day the application is made.

Section 11(1) of the Electricity Feed-in Act provides that:

The premium rate for the financial year in which a renewable energy generator is connected to a distributor’s network applies, if the generator remains connected to the network, in relation to electricity generated by the generator during the 20 years after the date of the connection.

Section 7 of the Electricity Feed-in Act provides that the action required by a distributor under section 6(2) is a utility service for the Utilities Act.

Revocation and re-determination of Electricity Feed-in Code

The Disallowable Instrument revokes the industry code determined by the Commission under the *Utilities (Electricity Feed-in Code) Determination 2010 (No 1)*, DI2010-268 and determines an industry code as set out in the Attachment to the Disallowable Instrument.

The variations between the industry code as determined under *Utilities (Electricity Feed-in Code) Determination 2010 (No 1)*, DI2010-268 and the re-determined industry code are set out below.

This revocation and re-determination process has been followed for this variation to the Electricity Feed-in Code so that an authorised version of the industry code is available through the Legislation Register.

Outline of variations to Electricity Feed-in Code

The variations to the industry code incorporated into the re-determined industry code are detailed below.

In summary, the changes:

- aim to continue the status quo with rights and obligations formally applied to electricity suppliers now applied to NERL retailers
- maintain the dispute resolution processes set out in the previous code
- maintain the consumer protection provisions applicable to occupiers
- maintain existing reporting requirements.

The Code will be reviewed again in the near future to allow for specific consultation.

Consultation on variations to Code

In accordance with the Utilities Act, the Commission has consulted with relevant parties on the variation to the Code. A notice was also published in the Canberra Times and on the Commission's website inviting comments. The submissions received and the outcome of consultation are detailed on the Commission's website.

In accordance with the requirements of the Utilities Act, the Commission consulted with the Minister and the Minister responsible for technical regulation and is satisfied that the Code is not inconsistent in material respects with another industry code or a technical code and it is necessary or convenient to determine the Code.

The Commission has had due regard to the submissions received in response to the consultation process.

Public access to the Code

Copies of the Electricity Feed-in Code are available for inspection by members of the public between 9:00 am and 5:00 pm, Monday to Friday, at the Commission's offices

at Level 8, 221 London Circuit, Canberra City ACT and on the Commission's website (www.icrc.act.gov.au). Copies of these documents can be made at the Commission's offices. Electronic copies are available on request. No charge will apply.