



ACT
Government

REGULATORY IMPACT STATEMENT

Utilities (Technical Regulation) (Electricity Transmission Supply Code) Approval 2016 (No 1)

Disallowable Instrument DI2016-189

Technical Regulator

Environment and Planning Directorate

July 2016

Purpose

The purpose of this Regulatory Impact Statement (RIS) is to provide information about the regulatory impact of the *Utilities (Technical Regulation) (Electricity Transmission Supply Code) Approval 2016 (No 1)* (the Code), made under the *Utilities (Technical Regulation) Act 2014* (the Act). The Code requires the design, construction and ongoing operation of a second electricity transmission supply point for the ACT.

Policy Problem

The existing electricity transmission supply arrangements for the ACT pose a strategic risk to the Territory. Currently, the ACT has only a single connection to the electricity grid. This could pose significant risks to the community. Providing a second electricity transmission supply point will address the risk of bushfire, terrorism, or catastrophic equipment failure from destroying the single Canberra transmission substation by providing an additional transmission substation.

A sequence of instruments has been used by the ACT Government to establish a second point of electricity supply. These have included three utilities exemptions (for a utility exempted from having an Independent Competition and Regulatory Commission (ICRC) issued licence), a utility licence (issued in February 2015), and this Code approved under the UTR Act.

The Authorising Law

The Code is made and approved under Division 3.2 of the UTR Act. The UTR Act is an Act that relates to the safe, reliable and efficient delivery of regulated utility services. The objects of the Act include promoting the long-term serviceability of regulated utility networks and regulated utility services and to ensure the safe and reliable operation of and maintenance of regulated utility networks and regulated utility services to protect the public, workers, property and the environment.

Objectives of the Electricity Transmission Supply Code

The Code solves the policy problem outlined above by providing a second electricity transmission supply point for the ACT.

The Code ensures the integrity of electricity supply from the electricity network as well as electricity transmission connected to the network.

This Code applies to TransGrid and ActewAGL Distribution as licensed electricity transmission utilities under part 3 of the *Utilities Act 2000*. In the case that TransGrid or ActewAGL Distribution transfers its licence to another entity, and the transfer of the licence is approved by the Independent Competition and Regulatory Commission under the *Utilities*

Act 2000, this Code applies to the successor of the licence as a licensed electricity transmission utility.

The Code requires electricity transmission utilities to:

- (1) plan, design, construct, test, commission, maintain, operate and manage an electricity transmission network and connection points that provide electricity supply to their customers;
- (2) meet the supply demand and protect the reliability and integrity of the transmission network and associated infrastructure; and
- (3) ensure the safe management of the electricity transmission network minimising injury to any person or damage to property and the environment.

The Code also includes other requirements such as setting up electricity network safety management system, safety operating procedures, and safety rules.

Consistency of the Code with the UTR Act and the Utilities Act

The Code is a technical code made in accordance with the UTR Act. A draft code was prepared by the Technical Regulator under section 13 of the UTR Act and was given to the Independent Competition and Regulatory Commission (ICRC) and the affected regulated utility services for consultation.

The Code has been approved by the Minister under s 14 of the UTR Act.

The Code is consistent with the objects of the UTR Act as it is a technical code made that satisfies the legislative requirements.

TransGrid was granted an electricity transmission utility licence on 24 February 2015 by the *Utilities (Grant of Licence) Notice 2015 (No 1)* (NI2015-87). Schedule 1 of the Notice provides additional licence conditions that required TransGrid to provide two or more geographically separate transmission connection points by 2020. Currently the ACT has only a single connection to the electricity grid. The additional licence conditions expired on 31 August 2015. However the conditions are still relevant to TransGrid as a licensed utility and were incorporated into this Code.

As can be seen above, the approval of this Code forms part of an ongoing process to develop a second electricity transmission supply point in the ACT.

Consideration of Alternative Options

Since 2014, the UTR Act has provided for the technical regulation of utility services in the ACT. There are no reasonable alternatives available for the technical regulation of such a service outside of the UTR Act. Within the bounds of the UTR Act, a technical code is the most appropriate mechanism for achieving the policy objective of the technical regulation of an electricity transmission supply.

Cost/Benefit Analysis of Implementing the Code

The Australian Energy Regulator (AER) regulates energy markets and networks under national energy market legislation and rules. Its functions include monitoring wholesale electricity and gas markets to ensure energy businesses comply with the legislation and rules, and taking enforcement action where necessary and setting the amount of revenue that network businesses can recover from customers for using networks (electricity poles and wires and gas pipelines) that transport energy. A regulatory requirement, such as the Code, must be in place before the AER will fund the provision of utility infrastructure.

Funding has been approved by the AER for transmission supply work that will be undertaken by TransGrid and ActewAGL Distribution. This funding from the AER has been provided based on submissions from the utility to the regulator since the initial regulatory requirements to provide the second electricity transmission supply point were first introduced in 2006. This AER funding, which may be adjusted by the utility resubmitting documents to the AER, will fund the capital costs of providing the second electricity transmission supply.

The ongoing reporting requirements of the Code will not impose significant costs upon the utility, because the reporting requirements are aligned with project reporting and regulatory reporting to other regulators that is undertaken regularly by TransGrid and ActewAGL Distribution.

Consultation with affected Regulated Utilities and the ICRC

As required by the UTR Act, the Code has been provided to the ICRC and the relevant regulated utilities, ActewAGL Distribution and TransGrid. These parties have received a copy of the approved Code and are aware of the requirements and implications of the Code for their business.

Consistency of the Code with Scrutiny of Bills Committee Principles

The Scrutiny of Bills Committee's terms of reference require it to consider whether (among other things) any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law):

- is in accord with the general objects of the Act under which it is made;
- unduly trespasses on rights previously established by law;
- makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
- contains a matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

As described above, the Code is in accordance with the objects of the UTR Act under which it is made. Generally speaking, the Code provides for the technical regulation of a second electricity transmission supply. The Code also addresses the objects of the UTR Act by detailing requirements for the reliability and integrity of the transmission network and associated infrastructure. The Code also supports the objects of the UTR Act by requiring the safe management of the electricity transmission network to avoid injury to any person or damage to property and the environment.

The Code does not unduly trespass on rights previously established by law. The Code is made as a technical code under the UTR Act. The Code has been provided to affected regulated utilities for consultation as required by the Act. The relevant utilities have indicated their support for the approval and implementation of the Code.

The Code creates obligations on the affected regulated utilities to deliver and manage a second electricity transmission supply point. However, it does not create any decision-making functions, obligations or rights which are unduly dependent on non-reviewable decisions.

The technical regulation of utilities is a matter which is expressly considered in the UTR Act. A process for technical regulation is provided for by the creation and approval of technical codes. Technical codes are important to give effect to the objects of the UTR Act, and are an appropriate and necessary measure to provide for the technical regulation of important utility services to ensure safe and reliable networks.

The technical requirements and obligations imposed by the Code are essentially about ensuring that regulated utility services operate in accordance with the objects of the UTR Act. Placing these requirements in a technical code made under the UTR Act is a necessary means to achieve the goal of the technical regulation framework. Therefore, the Code requirements are justifiable, proportional and appropriate and have been discussed and supported by the relevant regulated utilities.