

ATTACHMENT A

NETWORK SERVICE PROVIDER EXEMPTION

COWELL ELECTRIC SUPPLY PTY LTD

NOTICE OF DECISION TO GRANT EXEMPTION

I, Mike Buckley, in accordance with a delegation made by the Australian Energy Regulator ('AER') on 4 July 2007, decide pursuant to:

- (a) section 13 of the National Electricity (South Australia) Law ('NEL'); and
- (b) clause 2.5.1 of the National Electricity Rules ('NER'),

to grant Cowell Electric Supply Pty Ltd (ABN 15 095 517 490) ('Applicant') an exemption ('Exemption') from:

- (a) the requirement to register as a Network Service Provider ('NSP'); and
- (b) the operation of Chapter 5 of the NER,

subject to the following conditions.

Specified distribution system

1. The Exemption is limited to the distribution systems ('Distribution Systems') that:
 - (a) are owned and operated by the Applicant; and
 - (b) service the Iron Knob, Pimba and Woomera areas as described in the application for exemption of 23 February 2007.

Licence

2. The Applicant must comply with any law of the State of South Australia requiring the Applicant to be authorised to own, control and/or operate the Distribution Systems.

Safety and technical management

3. (a) The Applicant must comply with condition 6 of the Applicant's distribution licence ('Distribution Licence') granted on 24 December 1997 under the *Electricity Act 1996 (SA)*.

Note: As at the date of the decision, condition 6 of the Distribution Licence required the Applicant to prepare a safety and management plan, and to comply with the plan as approved by the Industry Regulator.

- (b) If condition 6 the Distribution License is changed, revoked or replaced by the responsible regulator, or the Distribution License is revoked or replaced, then the Applicant must:

- (i) Notify the AER of that change within 20 business days, detailing the changes, or any new provisions which concern management of safety in the Distribution Systems; and
 - (ii) Comply with the new or amended provisions applicable to the Applicant.
- (c) If, in the event that 3 (b) is satisfied, but the AER does not consider that the new provisions are adequate to ensure substantive compliance with NEM requirements, it may amend or repeal the exemption pursuant to condition 11.

Connection and supply of network services

4. (a) The Applicant must comply with any connection policy ('Connection Policy') approved under the Distribution Licence.

Note: As at the date of the decision, condition 18 of the Distribution Licence required the Applicant, if requested by the Industry Regulator, to develop a connection policy, to be submitted to the Industry Regulator for approval.

- (b) If:
- (i) the Applicant receives a request for Connection and/or access to the Network Services provided by the Distribution System from an existing or intending Registered Participant or a person who is eligible to become a Registered Participant; and
 - (ii) there is no Connection Policy, or the Connection Policy does not apply to the request,

the Applicant must, subject to condition 4(c), allow that person to form a Connection and have access to the Network Services provided by the Distribution System.

- (c) The Applicant is not required to allow Connection and provide access under condition 4(b) where it would:
- (i) adversely affect Supply to the Applicant's business; or
 - (ii) require the Applicant to Augment the Distribution System.
- (d) If the Applicant rejects a request that comes within condition 4(b)(i), the Applicant must notify the AER within twenty business days of that decision.
- (e) For the purposes of conditions 4(b), 4(c) and 4(d), the terms 'Augment', 'Connection', 'Network Services', 'Registered Participant' and 'Supply' have the meaning assigned to them in the NER.

Terms and conditions

5. (a) The terms and conditions (including price) on which the Applicant allows connection to, and provides access to the network services provided by, the Distribution System, must:
- (i) comply with all applicable laws; and
 - (ii) if there is no Connection Policy or the Connection Policy does not apply to the relevant agreement, be consistent with the provisions in Chapter 5 of the NER governing terms and conditions of Connection Agreements.

Note: Although the Applicant is exempt from the operation of Chapter 5 of the NER, the purpose of condition 5(a)(ii) is to require an agreement in relation to the Distribution System to satisfy the same substantive requirements as if Chapter 5 of the NER applied (in the event that there is no Connection Policy governing that agreement).

- (b) For the purposes of condition 5(a)(ii), the term 'Connection Agreement' has the meaning assigned to it in the NER.

Retail Activities

3. If the Applicant notifies customers to which it supplies energy through the relevant Distribution Systems (Retail Customers) that the rate charged for energy is to be varied, the Applicant must also inform the AER of the change within 20 business days.

Dispute resolution

7. The Applicant must comply with all applicable laws governing disputes with respect to the Distribution System involving:
- (a) the Applicant; and
 - (b) a person whose premises is connected, or who requests connection, to the Distribution System.

Note: As at the date of the decision, clause 9.28.2 of the NER provided for the resolution by the South Australian Jurisdictional Regulator of access disputes in respect of distribution networks situated in South Australia. See also the dispute resolution mechanism set out in Chapter 8 of the NER, and conditions 7 and 6 of the Distribution Licence and Retail License respectively.

Commencement and expiry

8. The Exemption takes effect on and from 4 July 2007.
9. The Exemption terminates on the date that:
- (a) the Applicant is dissolved;

- (b) the Applicant fails to satisfy condition 3(b) or 4(d); or
 - (c) the AER decides to repeal the Exemption in accordance with condition 11.
10. If the Applicant becomes aware that any condition of this Exemption is not satisfied, the Applicant must promptly (and, in any event, within one month) notify the AER.
11. The AER may decide to amend or repeal the Exemption. The decision to amend or repeal the Exemption is exercisable in the same way, and subject to the same conditions, as the decision to grant the Exemption.

Note: For example, the AER may decide to repeal the Exemption in the event that a condition of the Exemption is not satisfied, or if circumstances change.

Interpretation

12. In this Exemption, unless the contrary intention appears, a reference to:
- (a) a statute, regulation, law, rule or other law includes regulations and other instruments made under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (b) a document or provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
 - (c) an agreement or a provision of an agreement includes an amendment or supplement to, or replacement or novation of, that agreement or that provision of that agreement;
 - (d) except in relation to references to the Applicant, a particular person includes a reference to the person's successors, substitutes (including persons taking by novation) and assigns.

Note: The Exemption is personal to the Applicant, and does not apply to any other person that owns, controls or operates the Distribution System at the time of the decision or in the future.


Mike Buckley
Delegate of the Australian Energy Regulator

DATED: 4 July 2007