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GENERAL

ORDERS IN COUNCIL**Crown Land (Reserves) Act 1978**

DISSOLUTION OF INCORPORATED COMMITTEES OF MANAGEMENT

Order in Council

The Governor in Council under section 14A(7) of the **Crown Land (Reserves) Act 1978** dissolves the incorporated committees of management described hereunder:—

1. the Sea Lake Court House Committee of Management Incorporated constituted by Order in Council of 5 June, 2007 and published in the Victoria Government Gazette on 7 June, 2007 page – 1087; File ref: 012015093;
2. the Windermere Mechanics Institute Committee of Management Incorporated constituted by Order in Council of 13 September, 2005 and published in the Government Gazette on 15 September, 2005 page – 2091; and
3. the Durham Ox Recreation Reserve Committee Incorporated constituted by Order in Council of 10 February, 2009 and published in the Government Gazette on 12 February, 2009 page – 299.

This Legislative Instrument is effective from the date on which it is published in the Government Gazette.

Dated 12 April 2016

Responsible Minister

HON LISA NEVILLE MP

Minister for Environment, Climate Change and Water

ANDREW ROBINSON
Clerk of the Executive Council

Electricity Industry Act 2000ADVANCED METERING INFRASTRUCTURE (AMI TARIFFS)
AMENDMENT ORDER 2016

Order in Council

The Governor in Council under section 46D of the **Electricity Industry Act 2000** ('the Act') makes the following Order:

1. Purpose

The purpose of this Order is to amend the AMI Tariffs Order to make further provision for the structure, taking effect and choice of AMI tariffs during the period ending 31 December 2020 and for other matters.

2. Definitions

In this Order:

AMI Tariffs Order means the Advanced Metering Infrastructure (AMI Tariffs) Order made on 18 June 2013 under section 46D of the Act and published in the Victoria Government Gazette S 216 on 19 June 2013 as amended by the Order in Council made 22 December 2015 published in the Victoria Government Gazette S 430 on 23 December 2015.

3. Commencement

This Order commences on the day it is published in the Government Gazette.

4. Amendments

The AMI Tariffs Order is amended in accordance with the Schedule.

Dated 12 April 2016

Responsible Minister

LILY D'AMBROSIO

Minister for Energy and Resources

ANDREW ROBINSON
Clerk of the Executive Council

SCHEDULE

1. Definitions

- (a) **Insert** in clause 2 of the AMI Tariffs Order in their appropriate alphabetical order the following definitions:

'additional reversion period' means the period commencing 1 January 2017 and ending 31 December 2020;

'charging parameter' has the same meaning as it has in the National Electricity Rules;

'cost reflective flexible AMI distribution tariff' means a flexible AMI distribution tariff that is not a TOU flexible AMI distribution tariff and which was or is first made available from 1 January 2017;

Note: See also clauses 2A(3) and 2A(4).⁷

'cost reflective flexible AMI retail tariff' means a flexible AMI retail tariff that is not a TOU flexible AMI retail tariff and which was or is first made available from 1 January 2017;

Note: See also clauses 2A(3) and 2A(4).⁷

'demand based price' has the same meaning as it has in the National Electricity Rules;

'tariff structure statement' has the same meaning as it has in the National Electricity Rules;

'Time of use flexible AMI distribution tariff' or *'TOU flexible AMI distribution tariff'* means a flexible AMI distribution tariff that varies not according to demand but according to specified peak, shoulder and off peak times;

Note: See also clause 2A(2).⁷

'Time of use flexible AMI retail tariff' or *'TOU flexible AMI retail tariff'* means a flexible AMI retail tariff that varies not according to demand but according to specified peak, shoulder and off peak times;

Note: See also clause 2A(2).⁷

- (b) **Insert**, after the definitions of flat AMI distribution tariff and flat AMI retail tariff, the following additional note:

'3. See also clause 2A(1).⁷

- (c) In the definition of Energy Retail Code, for 'version 10 dated May 2012' **substitute** 'version 11 dated 1 January 2015'.

- (d) In the definition of price comparator website, for 'Primary Industries' **substitute** 'Economic Development, Jobs, Transport and Resources'.

2. New interpretation clause inserted

Insert after clause 2 of the AMI Tariffs Order:

2A. Further interpretation provisions

- (1) For the purposes of the definitions of flat AMI distribution tariff and flat AMI retail tariff, the 'other characteristics' referred to in paragraph (d) of both definitions include, but are not limited to, demand for electricity.

- (2) For the purposes of the definitions of TOU flexible AMI distribution tariff and TOU flexible AMI retail tariff:
 - (a) the specified peak, shoulder and off peak times are those times that are, from time to time, specified by a distributor or retailer as the case may be; and
 - (b) those specified peak, shoulder and off peak times may be the same as, or may differ from the times set out in the Schedule.
- (3) For the purposes of the definitions of cost reflective flexible AMI distribution tariff and cost reflective flexible AMI retail tariff, and without limitation:
 - (a) any tariff:
 - (i) with a charging parameter to which is applied a demand based price where the time period for that price is a period of actual or agreed demand; or
 - (ii) which otherwise involves such a demand based price, is a cost reflective flexible AMI distribution tariff or cost reflective flexible AMI retail tariff, as the case may be;
 - (b) a cost reflective flexible AMI distribution tariff includes any such tariff notified pursuant to clause 6.18.1C of the National Electricity Rules;
 - (c) a cost reflective flexible AMI distribution tariff includes a trial, temporary or short term cost reflective flexible AMI distribution tariff;
 - (d) a cost reflective flexible AMI retail tariff includes a trial, temporary or short term cost reflective flexible AMI retail tariff;
 - (e) a cost reflective flexible AMI distribution tariff in respect of which the demand usage charge or demand charging parameter is set as zero (either for a period or indefinitely), does not thereby cease to be a cost reflective flexible AMI distribution tariff; and
 - (f) a cost reflective flexible AMI retail tariff in respect of which the demand usage charge or demand charging parameter is set as zero (either for a period or indefinitely), does not thereby cease to be a cost reflective flexible AMI retail tariff.
- (4) The following are not, and are not to be taken to be either cost reflective flexible AMI distribution tariffs or cost reflective flexible AMI retail tariffs:
 - (a) critical peak rebates; and
 - (b) any other incentive (financial or non-financial) to reduce demand:
 - (i) which is not included as part of the basis upon which tariffs and charges are calculated; and
 - (ii) which a distributor or retailer provides directly to a small customer.

3. Amendment to clause 7

In clause 7(1)(b)(ii)(1) of the AMI Tariffs Order, for ‘clause 31(c)(i)’, **substitute** ‘clause 49A(6A)(i)’.

4. New clause 7A inserted

Insert after clause 7 of the AMI Tariffs Order:

‘7A. Small customers must opt-in to cost reflective flexible AMI retail tariffs

- (1) Subject to clause 7A(3), during the opt-in period, a retailer must not sell, or supply and sell electricity to a small customer at a tariff that is a cost reflective flexible AMI retail tariff unless:

- (a) that customer has given explicit informed consent to that tariff being that cost reflective flexible AMI retail tariff; and
- (b) the retailer has, prior to that customer giving explicit informed consent, advised the customer, either in writing or orally:
 - (i) that the customer may exercise the right conferred pursuant to clause 8A(1) to opt-out from that cost reflective flexible AMI retail tariff; and
 - (ii) of:
 - (1) whether that customer may be, or is liable to pay a fee in accordance with clause 49A of the Energy Retail Code as a result of the customer giving notice pursuant to clause 8A(1) or otherwise exercising the rights conferred on the customer pursuant to clause 8A; and
 - (2) the amount of that fee, or if the amount cannot reasonably be determined at the time of the giving of the advice by the retailer, the manner of calculation of the fee.
- (2) Clause 7A(1) applies despite anything to the contrary in the electricity contract between the retailer and the small customer.
- (3) A customer may give explicit informed consent to a tariff that is a cost reflective flexible AMI retail tariff where the date on which that tariff is to have effect is a date prior to the date on which the customer gives that consent but only where the explicit informed consent also extends to the tariff having such an effect.
- (4) In this clause:

opt-in period means the period commencing 1 January 2017 and ending 31 December 2020.’

5. New clause 8A inserted

Insert after clause 8 of the AMI Tariffs Order:

‘8A. Small customers may opt-out of cost reflective flexible AMI retail tariff during the additional reversion period

Opting-out from a cost reflective flexible AMI retail tariff

- (1) Subject to clause 8A(3), during the additional reversion period, a small customer who has given consent to a tariff that is a cost reflective flexible AMI retail tariff may, by written or oral notice to a retailer, require that retailer to cease sale, or supply and sale of electricity to him or her at a tariff that is a cost reflective flexible AMI retail tariff and to commence instead:
 - (a) sale, or supply and sale at the AMI retail tariff:
 - (i) that is not a cost reflective flexible AMI retail tariff; and
 - (ii) which last applied before the retailer commenced sale, or supply and sale at a cost reflective flexible AMI retail tariff, **(previously applying AMI retail tariff)**; or
 - (b) if that previously applying AMI retail tariff has been replaced by or varied to another AMI retail tariff (not itself being a cost reflective flexible AMI retail tariff) that would have applied to the customer had he or she not consented to a cost reflective flexible AMI retail tariff **(replacement AMI retail tariff)**, sale or supply and sale at the replacement AMI retail tariff.

Note: The effect of clause 8A(1) is that a small customer can revert to either a flat AMI retail tariff or a TOU flexible AMI retail tariff.

- (2) The small customer is not required in the notice to specify which relevant AMI retail tariff is to apply.
- (3) Clause 8A(1) applies only in the following circumstances:
 - (a) the small customer has remained with the same retailer throughout the cost reflective flexible AMI retail tariff period;
 - (b) the notice is given to that retailer;
 - (c) the notice is in relation to the same premises as those at which electricity has been sold, or supplied and sold to the customer by that retailer during the cost reflective flexible AMI retail tariff period; and
 - (d) that retailer is, at the time the notice is given, still the retailer for electricity sold, or supplied and sold to the customer at those premises.
- (4) Subject to clause 8A(6), a retailer must:
 - (a) comply with a notice given under clause 8A(1); and
 - (b) apply the relevant AMI retail tariff to electricity sold, or supplied and sold to the small customer commencing from not later than 2 business days after receipt by the retailer of the notice.
- (5) The relevant AMI retail tariff that the retailer must apply may be an AMI retail tariff that is, or is otherwise:
 - (a) a closed tariff; or
 - (b) an open tariff.

A retailer must not, pursuant to this clause 8A(5), apply a cost reflective flexible AMI retail tariff.
- (6) A retailer is not obliged to comply with a notice given under clause 8A(1) if:
 - (a) the configuration of the metering installation by means of which the electricity sold, or supplied and sold to the small customer under the cost reflective flexible AMI retail tariff is metered, does not permit reversion to a relevant AMI retail tariff. A retailer must give written notice of that fact to a small customer if such is the case; or
 - (b) the notice results in a new or varied electricity contract and the small customer cancels that contract during the cooling-off period.

Limitation on charges – retailers

- (7) A retailer may not impose on a small customer any fee or charge as a result of that customer giving notice pursuant to clause 8A(1) or otherwise exercising the rights conferred on him or her pursuant to this clause.
- (8) Clause 8A(7) does not prevent a retailer from charging the small customer:
 - (a) a fee determined in accordance with clause 49A(6A)(i) of the Energy Retail Code; and
 - (b) any other fee or charge that would be payable by the small customer independently of that customer:
 - (i) giving notice pursuant to clause 8A(1); or
 - (ii) otherwise exercising the rights conferred on him or her pursuant to this clause.
- (9) To avoid doubt, clause 8A(8) does not permit a retailer to charge, as a result of a small customer:
 - (a) giving notice pursuant to clause 8A(1); or
 - (b) otherwise exercising the rights conferred on him or her pursuant to this clause,

the \$20 that would or might otherwise be permitted to be charged pursuant to clause 49A(6A)(ii) of the Energy Retail Code.

Miscellaneous

- (10) This clause has effect:
- (a) despite anything to the contrary in:
 - (i) the electricity contract; or
 - (ii) any other agreement or contract, between the small customer and the retailer; and
 - (b) notwithstanding that a new or varied electricity contract between the small customer and retailer is or may be required to be entered into.
- (11) In this clause:
- cost reflective flexible AMI retail tariff period*** means the period commencing from immediately before the date the small customer gave consent to a cost reflective flexible AMI retail tariff and ending on the date on which the customer gives notice pursuant to clause 8A(1);
- previously applying AMI retail tariff*** has the meaning given it by clause 8A(1)(a);
- relevant AMI retail tariff*** means:
- (a) the previously applying AMI retail tariff; or
 - (b) the replacement AMI retail tariff.
- replacement AMI retail tariff*** has the meaning given it by clause 8A(1)(b).⁷

6. Amendment to clause 9

Insert after clause 9(2) of the AMI Tariffs Order:

‘(3) This clause 9 does not apply in any case where clause 9A applies.’

7. New clause 9A inserted

Insert after clause 9 of the AMI Tariffs Order:

‘9A. Distributor’s distribution tariffs must include a choice of AMI distribution tariffs

- (1) This clause 9A:
 - (a) applies to any tariff structure statement submitted, or to be submitted in respect of the initial regulatory control period;
 - (b) does not apply to any tariff structure statement submitted, or to be submitted, in respect of any other regulatory control period;
 - (c) applies to all pricing proposals for the regulatory years 2017, 2018, 2019 and 2020; and
 - (d) does not apply to pricing proposals for any other regulatory year.
- (2) The tariffs for each tariff class included by a distributor in a tariff structure statement and a pricing proposal, where the customers of that class may include domestic customers with advanced metering infrastructure, must include at least:
 - (a) one TOU flexible AMI distribution tariff; and
 - (b) one flat AMI distribution tariff.

This clause does not prevent a tariff structure statement or a pricing proposal having one or more cost reflective AMI distribution tariffs.
- (3) For the purposes of clause 9A(2) at least one TOU flexible AMI distribution tariff must be consistent with the common form distribution tariff structure in the Schedule.

- (4) In this clause:
initial regulatory control period has the same meaning as it has in clause 11.75.1 of the National Electricity Rules;
tariff structure statement includes a proposed, or revised proposed tariff structure statement submitted pursuant to clauses 6.8.2 and 6.10.3 (as those clauses stand amended by clause 11.76.2) of the National Electricity Rules;
regulatory control period has the same meaning as it has in the National Electricity Rules;
regulatory year has the same meaning as it has in the National Electricity Rules.’

8. New clause 10A inserted

Insert after clause 10 of the AMI Tariffs Order:

‘10A. Distributor to assign distribution tariffs to small customers in accordance with a retailer’s direction

Additional transition period – direction a retailer may give

- (1) During the additional transition period, a retailer may, by notice in writing, direct a distributor to assign to a small customer of that retailer an AMI distribution tariff from the tariff class applicable to that small customer.
- (2) A direction pursuant to clause 10A(1) may not be given by a retailer unless the small customer has:
- (a) a deemed contract with the retailer pursuant to section 39(1) of the Act;
 - (b) a deemed contract with the retailer pursuant to section 37 of the Act but only when that contract is varied; or
 - (c) first entered into with the retailer a new or varied electricity contract for sale of electricity at:
 - (i) an AMI retail tariff; or
 - (ii) a new or varied AMI retail tariff.
- (3) During the additional transition period and where a small customer has already been assigned an AMI distribution tariff, a distributor must not assign a different AMI distribution tariff to that small customer except:
- (a) in accordance with a direction; or
 - (b) where the assignment is consequent on a change of tariff class and that change is in accordance with the provisions of the distribution determination that applies to, or the tariff structure statement that relates to the electricity network services provided by that distributor. However a distributor must not assign pursuant to this paragraph a cost reflective flexible AMI distribution tariff.

Additional reversion period – small customer giving notice pursuant to clause 8A(1) – direction a retailer may give

- (4) During the additional reversion period, if:
- (a) a retailer receives from a small customer notice pursuant to clause 8A(1); and
 - (b) at the time that the notice is given by the small customer, that customer is on a cost reflective flexible AMI distribution tariff,
- the retailer may, by notice in writing, direct a distributor to assign to that small customer an AMI distribution tariff in accordance with clause 10A(5).

- (5) The distributor must assign pursuant to clause 10A(4):
- (a) the AMI distribution tariff:
 - (i) that is not a cost reflective flexible AMI distribution tariff; and
 - (ii) which last applied before the distributor commenced distribution or supply to the small customer at a cost reflective flexible AMI distribution tariff; or
 - (b) if that AMI distribution tariff has been replaced by or varied to another AMI distribution tariff (not itself being a cost reflective flexible AMI distribution tariff) that would have applied to the customer had distribution or supply to the small customer at a cost reflective flexible AMI distribution tariff not commenced, that replacement or varied AMI distribution tariff.
- (6) The AMI distribution tariff that the distributor must assign pursuant to clause 10A(5) may be an AMI distribution tariff that is, or is otherwise:
- (a) a closed tariff; or
 - (b) an open tariff.

A distributor must not, pursuant to this clause 10A(6), assign a cost reflective flexible AMI distribution tariff.

Distributor's obligations when a direction given

- (7) A distributor must assign an AMI distribution tariff in accordance with a direction except where:
- (a) the retailer neglects or fails to specify, or sufficiently specify in the notice the AMI distribution tariff to be assigned;
 - (b) the retailer neglects or fails to provide sufficient details in the notice to enable the distributor to identify:
 - (i) the small customer; or
 - (ii) the metering installation of that customer;
 - (c) in the case of a direction pursuant to clause 10A(1), the AMI distribution tariff specified in the notice is no longer an open tariff; or
 - (d) otherwise the distributor reasonably determines that the AMI distribution tariff specified in the notice cannot be assigned to the small customer.
- (8) An AMI distribution tariff assigned in accordance with a direction must be applied to the electricity distributed and supplied to the small customer under that tariff commencing from not later than 2 business days after receipt by the distributor of the notice containing the direction except where:
- (a) the retailer giving the direction specifies in the notice that it is a retailer to whom the small customer has transferred from another retailer, in which case the AMI distribution tariff must be applied to the electricity distributed and supplied to that customer under that tariff commencing from the later of:
 - (i) the date of transfer of the customer; or
- Note: The *Market Settlement and Transfer Procedures* published by AEMO pursuant to clause 7.2.8 of the National Electricity Rules make provision for the date of transfer, see *MSATS Procedures: CATS Procedure Principles and Obligations*.
- (ii) 10 business days prior to receipt by the distributor of the notice containing the direction; or
 - (b) the retailer in the notice specifies another date for the assignment to take effect, being a date later than the 2 business days.

Distributor's obligations when no direction given

- (9) Where a retailer has not given a direction and a small customer has not already been assigned an AMI distribution tariff, the distributor must:
- (a) assign an AMI distribution tariff in accordance with the provisions of the distribution determination or tariff structure statement that applies to the electricity network services provided by that distributor; but
 - (b) not assign to the small customer:
 - (i) a cost reflective flexible AMI distribution tariff; or
 - (ii) the TOU flexible AMI distribution tariff referred to in clause 9A(3).
- (10) Where a retailer has not given a direction and a small customer has been assigned an AMI distribution tariff which is not a cost reflective flexible AMI distribution tariff, a distributor must not assign that small customer a cost reflective flexible AMI distribution tariff.

Limitation on charges – distributors

- (11) A distributor may not impose on a retailer any fee or charge as a result of that retailer:
- (a) giving a direction; or
 - (b) otherwise exercising the rights conferred on the retailer pursuant to this clause.
- (12) Clause 10A(11) does not prevent a distributor from charging the retailer any other fee or charge that would be payable by the retailer independently of that retailer:
- (a) giving a direction; or
 - (b) otherwise exercising the rights conferred on that retailer pursuant to this clause.

Miscellaneous

- (13) This clause has effect despite anything to the contrary:
- (a) in any agreement or contract between the retailer and a distributor;
 - (b) in any agreement or contract between the distributor and the small customer; and
 - (c) in the distribution determination that applies, or the tariff structure statement that relates to the electricity network services provided by a distributor.
- (14) This clause does not:
- (a) derogate from or limit any restriction or requirement imposed on a retailer pursuant to clauses 7A and 8A; or
 - (b) limit any right given to a small customer by those clauses.
- (15) In this clause and unless the context otherwise requires:
- additional transition period*** means the period commencing 1 January 2017 and ending 31 December 2020;
- assign*** includes re-assign;
- direction*** means a direction pursuant to clause 10A(1) or 10A(4).'

9. Direction to Commission – amendment of instruments

Insert after clause 13 of the AMI Tariffs Order:

'14. Further direction to Commission – amendment of instruments

The Commission must, as soon as practicable after the commencement of the Advanced Metering Infrastructure (AMI Tariffs) Amendment Order 2016, amend the Energy Retail Code and any other instrument made by the Commission so that they are consistent with the amendments made by that Order.'