

## NATIONAL ENERGY RETAIL LAW

Undertaking to the Australian Energy Regulator  
given for the purposes of section 288

by

Tasmanian Networks Pty Ltd ABN 24 167 357 299

### Persons giving this Undertaking

1. This Undertaking is given to the Australian Energy Regulator (**AER**) by Tasmanian Networks Pty Ltd (ABN 24 167 357 299) of 1-7 Maria Street, Lenah Valley TAS 7008 (**TasNetworks**) pursuant to section 288 of the *National Energy Retail Law* (**Retail Law**).
2. TasNetworks is a *distributor*, and holds a licence to operate the *distribution system* in Tasmania.

### Background

#### *Life support obligations*

3. As a *distributor*, TasNetworks has certain obligations under the *National Energy Retail Rules* (**Retail Rules**) as those rules are applied in Tasmania in accordance with the Retail Law in respect of a customer's premises at which a person resides who requires *life support equipment* (**Life Support Customer**).
4. From the period between 7 August 2018 and 23 November 2018 (**Relevant Period**), the Retail Rules required TasNetworks to provide a Life Support Customer at least four business days' written notice of any Distributor Planned Interruptions to supply at their premises.<sup>1</sup>
5. In 2017, TasNetworks engaged an independent auditor GHD Pty Ltd (ABN 39 008 488 373) (**GHD**) to complete an audit of TasNetworks' planned outage processes (the **GHD Audit**). TasNetworks engaged GHD to complete the GHD Audit in response to the AER's previous concerns with TasNetworks' ability to consistently meet its obligation to provide Life Support Customers at least four business days' written notice of any Distributor Planned Interruption to supply at their premises. GHD prepared an audit report (**GHD Audit Report**) that included report management actions (**GHD Report Management Actions**). The GHD Report Management Actions set out a number of processes and controls TasNetworks was implementing to address issues that the GHD Audit identified.
6. To help address the AER's concerns, in May 2018, TasNetworks provided the AER with a Compliance Improvement Action Plan that included a number of the GHD Report Management Actions.

#### *Conduct of concern*

7. In the Relevant Period, in breach of rule 125(2)(f) of the Retail Rules (as in force during the Relevant Period), TasNetworks failed to provide notification to 20 Life Support Customers at least four business days prior to three Distributor Planned Interruptions occurring.
8. TasNetworks notified the AER of each instance referred to in clause 7 of this Undertaking.

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<sup>1</sup> Rule 90(1) and 125(2)(f) of versions 13, 14, 15 and 16 of the Retail Rules. Under the current version of the Retail Rules (version 17), pursuant to rules 90(1)(c) and 124B(2)(v), the notice period may be shortened if the Life Support Customer provides TasNetworks with their explicit consent of the interruption to occur on a specified date.

### *Admission and resolution*

9. TasNetworks admits that it has breached its obligations under rule 125(2)(f) of the Retail Rules (as in force during the Relevant Period) to provide 20 Life Support Customers four days' written notice of a Distributor Planned Interruption to supply at their premises.
10. The AER is concerned about TasNetworks' repeated breaches of its obligation to provide Life Support Customers four business days' written notification of Distributor Planned Interruptions. TasNetworks acknowledges that these breaches are a result of deficiencies in its planned interruption systems and processes.
11. To address the AER's concerns and to minimise the likelihood of future contraventions of the Retail Rules, TasNetworks offers the Undertakings in clauses 17, 19 and 20.

### **Commencement of Undertaking**

12. This Undertaking comes into effect when:
  - (a) the Undertaking is executed by TasNetworks; and
  - (b) the AER accepts the Undertaking so executed (**Commencement Date**).
13. Upon the Commencement Date, TasNetworks undertakes to assume the obligations set out in clauses 17, 19 and 20 below.

### **Expiry of Undertaking**

14. This Undertaking expires once TasNetworks has implemented all of the reasonable recommendations of the Post Implementation Review set out in clause 17 and completed the additional actions set out in clauses 19 and 20 of this Undertaking.
15. TasNetworks may apply to withdraw or vary the Undertaking at any time, but this Undertaking will only be taken to be withdrawn or varied on the date on which the AER consents to such withdrawal or variation.
16. The AER may, if requested by TasNetworks, expressly waive in writing any of the obligations contained in this Undertaking or extend the date by which any such obligation is to be satisfied.

### **Undertaking**

#### *Post Implementation Review*

17. Subject to clause 18 below, TasNetworks undertakes that:
  - (a) It will engage an Independent Expert, approved by the AER, to complete a Post Implementation Review.
  - (b) Within 10 Business Days of the Commencement Date, TasNetworks will propose an Independent Expert for the AER's approval. If the AER does not approve the Independent Expert TasNetworks nominates, then TasNetworks will liaise with the AER to identify a candidate acceptable to the AER within a further 5 Business Days.
  - (c) Within 10 Business Days of receiving notice of the AER's approval of the Independent Expert, TasNetworks will engage the Independent Expert to complete a Post Implementation Review and prepare a report, including recommendations, which addresses the following matters:
    - (i) whether TasNetworks has implemented all the controls and processes as described in the GHD Report Management Actions and the Administrative Undertaking Compliance Improvement Action Plan;

- (ii) whether the controls and processes TasNetworks has implemented address deficiencies identified by the GHD Audit in TasNetworks':
  - systems, processes and controls in relation to identifying and notifying Life Support Customers prior to Distributor Planned Interruptions; and
  - training programs, materials and processes in relation to identifying Life Support Customers prior to Distributor Planned Interruptions.
- (iii) whether the controls and processes implemented by TasNetworks have resulted in TasNetworks achieving ongoing compliance with Retail Rules obligations to Life Support Customers in relation to Distributor Planned Interruptions;
- (iv) where it is identified that TasNetworks has not achieved ongoing compliance, provide practical recommendations for implementation by TasNetworks to enable it to meet the requirements of Retail Rules obligations to Life Support Customers in relation to Distributor Planned Interruptions; and
- (v) an assessment of the project plan and work completed to date in relation to the additional actions set out in clauses 19 and 20 of the Undertaking. The assessment, at a minimum, should include if TasNetworks has:
  - established a project team with documented roles and responsibilities;
  - drafted a documented project plan which includes project actions, key milestones, resource requirements and implementation and training plans; and
  - conducted a risk assessment to consider and treat identified risks on all aspects of the project.
- (d) It will, within 10 Business Days of engaging the Independent Expert, submit to the AER for approval, a detailed Post Implementation Review Proposal developed jointly with the Independent Expert which addresses the matters in 17(c) above. The proposal must include details of how the Independent Expert will conduct a risk based review and the matters to be addressed by the Independent Expert in its interim and final reports. If the AER has concerns about the proposal, TasNetworks will make revisions to the proposal in conjunction with the Independent Expert within 5 Business Days of the AER notifying its concerns.
- (e) It will use best endeavours to ensure that the Independent Expert will:
  - (i) commence the Post Implementation Review within 15 Business Days of receiving notice of the AER's approval of the Post Implementation Review Proposal;
  - (ii) complete the Post Implementation Review within 40 Business Days of the Post Implementation Review commencing;
  - (iii) provide TasNetworks with a final Post Implementation Review report within 20 Business Days of completion of the Post Implementation Review; and
  - (iv) have full, free and unrestricted access to all functions, staff, records, documentation and information necessary to conduct the Post Implementation Review.

- (f) Within 2 Business Days of receipt of the Independent Expert's findings and recommendations, TasNetworks will provide the final Post Implementation Review report to the AER.
  - (g) Within 20 Business Days of receipt of the Independent Expert's findings and recommendations, TasNetworks will provide the AER with the final Post Implementation Review report and TasNetworks' response to the findings, including the steps TasNetworks will take to implement all reasonable recommendations and proposed timings for implementation. This response will be from TasNetworks' Chief Executive Officer, unless that person is on leave at the required time, in which case it will be from his/her delegate.
  - (h) TasNetworks will use best endeavours to implement the steps referred to in paragraph 17(g) within the proposed timing.
  - (i) It will provide the AER with regular progress reports on the Post Implementation Review and updates on the implementation of any reasonable recommendations at intervals of no more than 40 Business Days from the commencement of the Post Implementation Review until all steps referred to in 17(g) have been implemented. The progress reports will address the progress of the Post Implementation Review and the progress in implementing reasonable recommendations of the Post Implementation Review.
  - (j) It will notify the AER in writing within 5 Business Days of any failure to comply with the dates identified within this Undertaking.
18. To the extent that any action under clause 17 is ongoing as at close of business 20 December 2019, the timeframe for completion of that action is automatically suspended and restarts from 2 January 2020.

*Additional actions*

19. By no later than 31 December 2020 it will complete a project to verify Low Voltage Network Connectivity of each Existing Life Support Customer. The project will complete the following actions in respect of each Existing Life Support Customer National Meter Identifier (**NMI**):
- (a) In-field actions:
    - (i) confirm the address linked to the NMI;
    - (ii) confirm first TasNetworks asset that the NMI is connected to;
    - (iii) confirm TasNetworks transformer that the NMI is connected to; and
    - (iv) confirm the location of the NMI with respect to the nearest open point on the distribution network,

(together, **In-Field Data**); and
  - (b) Desktop actions:
    - (i) Validate the In-Field Data against TasNetworks' Geographic Information System records.
20. By no later than 30 June 2021 TasNetworks' outage management process will include an additional validation step, enabled by the introduction of the Switch Order Management Module, to occur the day before a planned outage is scheduled. This additional step will take the switching instructions and run them against the current live high voltage network configuration in the Distribution Management System to determine any changes to the area impacted by the planned outage from that previously envisaged. The Switch Order Management Module will ensure changes in the network configuration that may impact Life Support Customers are visible and considered in the outage management process.

## Costs

21. TasNetworks must pay all of its own costs in relation to the Undertaking.

## Notification

22. Any notice or communication to the AER pursuant to this Undertaking must be sent to
- Name: CEO
- Address: GPO Box 520  
Melbourne VIC 3001
- Email: Attn: Jacqueline Thorpe – [AERCompliance@aer.gov.au](mailto:AERCompliance@aer.gov.au)
23. Any notice or communication to TasNetworks pursuant to this Undertaking must be sent to:
- Name: Chantal Hopwood, Leader Regulation
- Address: 1-7 Maria Street, Lenah Valley TAS 7008
24. TasNetworks must notify the AER of a change to its contact details within 5 Business Days.

## Acknowledgments

25. TasNetworks consents and acknowledges that:
- (a) the AER will make this Undertaking publicly available including by publishing it on the AER's website;
  - (b) the AER will, from time to time, make public reference to the Undertaking, including the findings of the Post Implementation Review referred to in clause 17, including in news media statements and in AER publications; and
  - (c) this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

## Definitions

26. Terms used in this Undertaking are set out below. Italicised terms used in this Undertaking have the meaning given to those terms in the National Energy Retail Law or Retail Rules, as the case requires.

Term	Meaning
<b>AER</b>	Australian Energy Regulator.
<b>Administrative Undertaking Compliance Improvement Action Plan</b>	means the revised Compliance Improvement Action Plan that TasNetworks provided to the AER in May 2018.
<b>Business Day</b>	has the meaning given to that term in the Retail Law.
<b>Commencement Date</b>	is the date the Undertaking comes into effect under clause 12 of this Undertaking.
<b>Distribution Management System</b>	means a software package that interfaces with remote controlled devices in the field and contains a 'dynamic' model of TasNetworks' distribution system.

<b>Distributor Planned Interruption</b>	has the meaning given to that term in the Retail Rules.
<b>Duration</b>	means the period commencing on the Commencement Date and ending on the Expiry Date of this Undertaking.
<b>Existing Life Support Customer</b>	means a Life Support Customer connected to TasNetworks' distribution network as at the Commencement Date.
<b>Expiry Date</b>	has the meaning given to that term by clause 14 of this Undertaking.
<b>GHD</b>	has the meaning described in clause 5 of this Undertaking.
<b>GHD Audit</b>	has the meaning described in clause 5 of this Undertaking.
<b>GHD Audit Report</b>	has the meaning described in clause 5 of this Undertaking.
<b>GHD Report Management Actions</b>	has the meaning described in clause 5 of this Undertaking.
<b>Independent Expert</b>	<p>means a third party who is not a Related Body Corporate of TasNetworks.</p> <p>The third party carrying out the Post Implementation Review must:</p> <ul style="list-style-type: none"> <li>• be able to act without bias and without any actual or potential conflicts of interest with reference to the following criteria: <ul style="list-style-type: none"> <li>○ is not a present or past staff member or director of TasNetworks;</li> <li>○ has not acted and does not act for, and does not consult and has not consulted to, TasNetworks in any matters relating to compliance with the Retail Rules; and</li> <li>○ has no significant shareholding or other interests in TasNetworks;</li> </ul> </li> <li>• have professional competence to apply established audit standards and techniques to carry out the Post Implementation Review to a high standard;</li> <li>• have a system of quality controls to ensure the Post Implementation Review report is of a professional standard;</li> <li>• have relevant expertise; and</li> </ul>

	<ul style="list-style-type: none"> <li>be able to conduct the Post Implementation Review in accordance with the Undertaking.</li> </ul>
<b>Life Support Customer</b>	has the meaning given to that term in the Retail Rules.
<b>Low Voltage Network Connectivity</b>	means the connection of a Life Support Customer NMI to a TasNetworks transformer.
<b>Post Implementation Review</b>	means an assessment as to the effectiveness of the controls and processes TasNetworks has implemented in response to the findings identified in the GHD Audit and addressing the matters set out in clause 17(c).
<b>Relevant Period</b>	has the meaning given by clause 4 of this Undertaking.
<b>Retail Law</b>	<p>means the National Energy Retail Law set out in the Schedule to the National Energy Retail Law (South Australia) Act 2011 as in force for the time being which, pursuant to section 4 of the National Energy Retail Law (Tasmania) Act 2012:</p> <p>a) applies as a law of Tasmania, with the modifications set out in Part 4 of that Act; and</p> <p>b) as so applying may be referred to as the National Energy Retail Law (Tasmania).</p>
<b>Retail Rules</b>	means the <i>National Energy Retail Rules</i> as those rules are applied in Tasmania in accordance with the Retail Law.
<b>Switch Order Management Module</b>	has the meaning given by clause 20 of this Undertaking.
<b>TasNetworks</b>	has the meaning given to that term by clause 1 of this Undertaking.
<b>Undertaking</b>	means this document (including any schedules or annexures to this document) as varied from time to time under section 288 of the Retail Law.

## Interpretation

27. In the interpretation of this Undertaking, the following provisions apply unless the context otherwise requires:

- (a) a reference to this Undertaking includes all of the provisions of this document including its annexures;
- (b) headings are inserted for convenience only and do not affect the interpretation of this Undertaking;
- (c) if the day on which any act, matter or thing is to be under this Undertaking is not a Business Day, the act, matter or thing must be done on the next Business Day;



- (d) a reference in this Undertaking to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- (e) a reference in this Undertaking to any company includes a company over which that company is in a position to exercise control within the meaning of section 50AA of the *Corporations Act 2001*;
- (f) a reference in this Undertaking to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced;
- (g) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Undertaking;
- (h) an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or government agency;
- (i) where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (j) a word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes other genders;
- (k) a reference to the words 'such as', 'including', 'particularly' and similar expressions can be construed without limitation;
- (l) a construction that would promote the purpose or object of this Undertaking (whether expressly stated or not) will be preferred to a construction that does not promote that purpose or object.
- (m) a reference to:
  - (i) a thing (including but not limited to, a chose in action or other right) includes part of that thing; and
  - (ii) a party includes its successors and permitted assigns.

28. The AER may authorise a member of the AER or a member of the AER staff, to exercise a decision making function under this Undertaking on its behalf and that authorisation may be subject to any conditions which the AER may impose.

#### Executed by

Tasmanian Networks Pty Ltd (ABN 24 167 357 299) pursuant to section 127(1) of the *Corporations Act 2001*.

  
 .....  
 Director

  
 .....  
 Director/Secretary

This 13<sup>th</sup> day of DECEMBER 2019.



ACCEPTED BY THE AUSTRALIAN ENERGY REGULATOR PURSUANT TO SECTION 288 OF  
THE *NATIONAL ENERGY RETAIL LAW*.

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Clare Savage – Chair

This SEVENTEENTH day of FEBRUARY 2019.

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