ECONOMIC REGULATION AUTHORITY ACT 2003

ECONOMIC REGULATION AUTHORITY (ELECTRICITY NETWORKS ACCESS FUNDING) REGULATIONS 2012
Economic Regulation Authority Act 2003

Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012

Made by the Governor in Executive Council.

1. Citation

These regulations are the Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012.

2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published in the Gazette;

(b) the rest of the regulations — on the day after that day.

3. Terms used

(1) If a term is given a meaning in the ENA Code, it has the same meaning in these regulations, unless the contrary intention appears in these regulations.

(2) In these regulations, unless the contrary intention appears —

 allowed period means the period referred to in regulation 5(2) or 6(7), as the case requires, or such further period as the ERA may allow;
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**assessment amount** means the total amount payable as specified in a notice of assessment given under regulation 5(1)(b)(i);

**core function costs**, for a quarter, means costs that —

(a) are incurred by the ERA in the quarter in connection with performing its functions under the EI Act section 112 and under the ENA Code; and

(b) cannot be recovered through the imposition of specific charges under these regulations;

**EI Act** means the Electricity Industry Act 2004;

**ENA Code** means the Electricity Networks Access Code 2004 established under the EI Act section 104;

**ERA** means the Economic Regulation Authority established under the ERA Act;

**ERA Act** means the Economic Regulation Authority Act 2003;

**prescribed rate**, in relation to interest on amounts not paid within an allowed period, means the interest rate that is 5 percentage points higher than —

(a) the rate quoted on Reuters Screen BBSW as the Bank Bill Reference Rate (Mid Rate) for a one month bill at or about 10 a.m. (Sydney time) on the first day after the allowed period; or

(b) if a rate is not quoted as described in paragraph (a) — the rate determined by the ERA having regard to comparable indices then available;

**quarter** means the period of 3 months that begins on 1 July, 1 October, 1 January or 1 April;

**specific charge** means a charge payable under regulation 6;

**standing charge** means a charge payable under regulation 4.
4. Standing charges, liability for and amount of

(1) If, during any period in a quarter, a network is specified in Schedule 1 and is a covered network, a charge is payable for the network for the quarter in connection with the core function costs for the quarter.

(2) A charge payable under subregulation (1) for a network for a quarter must be paid by any person who is a service provider in relation to the network during the quarter.

(3) The amount of the charge payable under subregulation (1) by a person for a network for a quarter is determined in accordance with this formula —

\[
S = C \times P \times \frac{D_p}{D_Q}
\]

where —

- \(S\) is the amount of the standing charge;
- \(C\) is the amount of the core function costs for the quarter;
- \(P\) is the percentage specified in Schedule 1 for the network;
- \(D_p\) is the number of days in the quarter during which —
  (a) the network is specified in Schedule 1 and is a covered network; and
  (b) the person is the service provider in relation to the network;
- \(D_Q\) is the number of days in the quarter.

5. Standing charges, assessment and payment of

(1) As soon as is practicable after the end of each quarter the ERA must —

(a) assess the standing charges payable by a person for the quarter; and
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(b) give a notice of assessment to the person specifying —
   (i) the amount of each of those charges and the total amount payable; and
   (ii) the amount of the core function costs used in calculating those charges; and
   (iii) the day on which the notice of assessment was issued.

(2) A person given a notice of assessment must pay the assessment amount to the ERA within 30 days after the day specified in it under subregulation (1)(b)(iii).

(3) If the person does not pay the assessment amount in full within the allowed period, interest on the outstanding amount is payable to the ERA at the prescribed rate calculated daily.

(4) If a person given a notice of assessment so requests, the ERA must give the person a written explanation of how the core function costs specified in the notice were calculated and reasonable details of the core functions they relate to.

6. Specific charges, liability for and amount of

(1) If the ERA performs a function listed in Schedule 2, it may give a person who, under that Schedule, is liable to pay a specific charge for the ERA’s performance of the function a notice requiring the person to pay a charge —
   (a) for the ERA’s performance of the function; and
   (b) for anything the ERA did that was necessary or convenient to be done for or in connection with performing the function.
(2) If under Schedule 2 more than one service provider is liable to pay the specific charge for the performance by the ERA of a function listed in the Schedule, the charge is to be apportioned between them as follows —

(a) if each of the service providers who are liable is the service provider for a covered network, then —

(i) if those covered networks are only some of the covered networks listed in Schedule 1 — each provider is liable for the proportion of the specific charge that is the same proportion as the percentage, specified in Schedule 1, for the provider’s network bears to the sum of the percentages, specified in Schedule 1, for all of the networks of which the providers are liable;

(ii) otherwise — each provider is liable for the percentage, specified in Schedule 1 for the network, of the specific charge;

(b) otherwise — each provider is liable for an equal share of the specific charge.

(3) A notice given under subregulation (1) must specify —

(a) the amount of the specific charge; and

(b) the day on which the notice was issued.

(4) The amount of a specific charge is to be an amount equivalent to costs described in subregulation (5) that —

(a) have been incurred by the ERA; and

(b) are directly attributable to the performance of the relevant function or to the doing of anything that was necessary or convenient to be done for or in connection with the performance of the relevant function.
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(5) For the purposes of subregulation (4), the costs are —

(a) costs of consultants or contractors engaged by the ERA including accommodation costs, travel costs and equipment costs; and

(b) photocopying, mailing, publishing and advertising costs; and

(c) costs associated with public consultation conducted under the EI Act or the ENA Code.

(6) The ERA must provide the person liable to pay a specific charge with an itemised account of the costs covered by the charge if the person so requests.

(7) A person given a notice under subregulation (1) must pay the specific charge to the ERA within 30 days after the day specified in it under subregulation (3)(b).

(8) If the person does not pay the specific charge in full within the allowed period, interest on the outstanding amount is payable to the ERA at the prescribed rate calculated daily.

7. ERA document, fee for

(1) The ERA may require a person who requests a document prepared by or on behalf of the ERA in the performance of a function under the ENA Code to pay a fee for the document.

(2) The fee is to be calculated by the ERA according to the costs incurred in providing the document but is not in any case to exceed $100.

(3) The ERA cannot require the Coordinator of Energy or the Director of Energy Safety (referred to in the Energy Coordination Act 1994) to pay a fee under subregulation (1).
8. Unpaid amounts, recovery of

(1) The ERA may recover any unpaid assessment amount or specific charge, together with any interest payable under these regulations, in a court of competent jurisdiction as a debt due to the ERA.

(2) In proceedings under subregulation (1) a certificate —
   (a) purporting to be signed by the chairman; and
   (b) specifying an amount as being an assessment amount or a specific charge; and
   (c) specifying an amount as being interest payable under regulation 5(3) or 6(8); and
   (d) specifying a person as being liable to pay the specified amounts; and
   (e) stating that the specified amounts are unpaid,

is, without proof of the appointment of the chairman or of the authenticity of the signature, sufficient evidence of the matters specified or stated.

9. ERA’s annual report, matters to be included in

The annual report submitted by the ERA under the Financial Management Act 2006 section 61 must include details of the following matters in respect of the financial year to which the annual report relates —

(a) the total amount of standing charges for each person;
(b) the total amount of specific charges for each person.
Schedule 1 — Percentages for calculating standing charges

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**Functions for which specific charges are payable**

### Schedule 2

**Schedule 2 — Functions for which specific charges are payable**

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<table>
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#### Schedule 2  Functions for which specific charges are payable

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<tr>
<td>19.</td>
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<td>Person making the application</td>
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<tr>
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<td>Service provider of the network to which the technical rules apply</td>
</tr>
<tr>
<td>21.</td>
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<td>Service provider of each covered network to which the model technical rules apply</td>
</tr>
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**Schedule 2**

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<tr>
<td>26.</td>
<td>Functions under ss. 13.37 and 13.38 in relation to a service provider’s ringfencing compliance procedures</td>
<td>Service provider concerned</td>
</tr>
</tbody>
</table>

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.