

# Electricity and Other Legislation (Price Determinations) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 26

made under the

*Electricity Act 1994*

*National Energy Retail Law (Queensland) Act 2014*

## General Outline

### Short title

*Electricity and Other Legislation (Price Determinations) Amendment Regulation 2018*

### Authorising law

Section 263 of the *Electricity Act 1994*

Section 11 of the *National Energy Retail Law (Queensland) Act 2014*

### Policy objectives and the reasons for them

The *Electricity and Other Legislation (Price Determinations) Amendment Regulation 2018* (the amendment regulation) makes amendments to the *Electricity Regulation 2006* and the *National Energy Retail Law (Queensland) Regulation 2014*.

#### *Amendments to Electricity Regulation 2006*

The Queensland Competition Authority sets the price of electricity in regional Queensland on an annual basis. The Queensland Competition Authority requires extensive data from industry to help determine the price each year and ensure its price setting process takes account of the true cost of providing the service.

One issue the Queensland Competition Authority needs to consider is 'loss factors'. This is the amount of energy lost due to electrical resistance and the heating of conductors as electricity flows through the network. Across the National Electricity Grid, losses are equivalent to approximately 10 per cent of the total electricity transported between power stations and market customers. However, the amount of loss varies significantly across the network, affected by distance and weather conditions.

The Queensland Competition Authority has historically received electricity load data for each transmission connection point in Queensland from the Australian Energy Market Operator. The Queensland Competition Authority uses this information each year to calculate the weighted average electricity loss factors for different profiles.

The electricity load data per transmission connection point is considered 'protected information' under the National Electricity Law because it is commercially sensitive. The National Electricity Law restricts what the Australian Energy Market Operator can do with protected information and the circumstances under which it may disclose protected information to third parties.

Amendments to *Electricity Regulation 2006* are required to give the pricing entity responsible for setting notified prices access to the information it needs to determine prices for regional Queensland accurately.

#### Amendments to the National Energy Retail Law (Queensland) Regulation 2014

In August 2017, the Prime Minister announced the Australian Government had secured agreement from several large energy retailers on a range of measures including, among other things, supporting a change to the National Energy Retail Rules requiring companies to inform customers when their discount benefits end, and setting out the dollar value of doing nothing. The Australian Government subsequently submitted a rule change request to the Australian Energy Market Commission.

In September 2017, the Australian Energy Market Commission published a notice advising of the commencement of an expedited rule making process and consultation in respect of the rule change request. The Australian Energy Market Commission published a final rule determination in November 2017.

The new rule's key requirements apply only to retailers with small customers on market retail contracts for electricity and gas where the contract provides a benefit to the customer (such as a price discount) for a minimum period or fixed benefit period that does not continue for the life of the contract. The rule requires retailers to send a notice to customers on such contracts 20 to 40 business days before their benefit changes.

The obligations under the new rule commenced on 1 February 2018. To minimise potential stakeholder confusion and to ensure that Queensland legislation is consistent with the applied national laws, consequential amendments are required to *National Energy Retail Law (Queensland) Regulation 2014*.

## **Achievement of policy objectives**

#### Amendments to Electricity Regulation 2006

The objective of this amendment is to make amendments to the *Electricity Regulation 2006* to provide the pricing entity responsible for setting notified prices, access to the

information it needs, specifically load data at the transmission connection point level, to determine prices for regional Queensland accurately.

The proposed amendments provide that a pricing entity may ask the Australian Energy Market Operator for relevant information, including protected information, the pricing entity requires to make a price determination under Division 3, Part 2, Chapter 4 of the *Electricity Act 1994*.

#### *Amendments to the National Energy Retail Law (Queensland) Regulation 2014*

The objective of this amendment is to make consequential amendments to the *National Energy Retail Law (Queensland) Regulation 2014* to align Queensland legislation with changes to national energy law.

The proposed amendments remove unnecessary duplication between an existing state-based modification to the *National Energy Retail Law (Queensland) Regulation 2014* (rule 48A) and the commencement of a new rule (rule 48A).

Without amendment, the presence of two rule 48As may cause confusion for retailers and other market participants.

### **Consistency with policy objectives of authorising law**

With respect to the *Electricity Act 1994*, the amendment regulation is consistent with the objectives set out in section 3, which establish a competitive electricity market in line with the national electricity industry reform process, and ensure that the interests of customers are protected.

With respect to the *National Energy Retail Law (Queensland) Act 2014*, the amendment regulation is consistent with the National Energy Retail Objective set out in section 13 of the National Energy Retail Law, which is to promote efficient investment in, operation and use of energy services for the long-term interests of consumers of energy.

### **Inconsistency with policy objectives of other legislation**

The amendment regulation is consistent with the policy objectives of other legislation. The amendments to the *National Energy Retail Law (Queensland) Regulation 2014* are consequential amendments resulting from changes in the national energy law.

### **Benefits and costs of implementation**

The Australian Energy Market Operator advised it will not incur costs in providing load data information to the Queensland Competition Authority. The costs and benefits of amendments to the *National Energy Retail Law (Queensland) Regulation 2014* have not been calculated as the amendments are of a consequential nature to align Queensland legislation with changes to national energy law.

## Consistency with fundamental legislative principles

No breaches of fundamental legislative principles have been identified.

## Consultation

For the development of the *Electricity Regulation 2006* amendment, the department consulted with the Queensland Competition Authority, the Australian Energy Market Operator and Powerlink.

The Queensland Productivity Commission was consulted to seek exclusion from further assessment under the *Queensland Government Guide to Better Regulation*. The Queensland Productivity Commission noted that the amendments to the *Electricity Regulation 2006* do not significantly add to the burden of regulation and can be excluded from further assessment.

During the development of the new rule 48A under the National Energy Retail Law, the Australian Energy Market Commission undertook public consultation. On 12 September 2017, the Australian Energy Market Commission published a notice advising of the commencement of an expedited rule making process and consultation in respect of the rule change request. The Australian Energy Market Commission received 18 written submissions and published its final rule determination on 7 November 2017.

The Queensland Productivity Commission was not consulted in relation to the regulatory proposal to amend the *National Energy Retail Law (Queensland) Regulation 2014*. The Department of Natural Resources, Mines and Energy applied a self-assessable exclusion from undertaking further regulatory impact analysis (category (a) – Regulatory proposals that make consequential amendments) as the proposed amendments are consequential to changes to national energy law.