

Electricity (CleanCo) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 92

made under the

Electricity Act 1994

General Outline

Short title

Electricity (CleanCo) Amendment Regulation 2019

Authorising law

Schedule 5, definition *State electricity entity*, paragraph (b)(ii) of the *Electricity Act 1994* (Act).

Policy objectives and the reasons for them

In August 2018, the Queensland Government, delivering on a 2017 election commitment, approved the establishment of CleanCo Queensland Limited (CleanCo) as the State's new renewable energy generator government owned corporation (GOC).

CleanCo is a structural long-term reform that will positively impact the energy market through innovative and reliable renewables-focused energy solutions. It will build, own and operate a portfolio of renewable energy assets and trade energy products to support the increased utilisation of low and no emission power generation assets. CleanCo will improve competition in the wholesale electricity market and increase Queensland's electricity system security and reliability, placing downward pressure on electricity prices.

With a mandate to support the development of 1000MW of new renewable energy generation by 2025, CleanCo will also assist the achievement of Queensland's Renewable Energy Target of 50 per cent renewable energy by 2030.

The policy objective of the *Electricity (CleanCo) Amendment Regulation 2019* (the Regulation) is to declare CleanCo to be a State electricity entity under the Act.

Chapter 5, definition *State electricity entity*, paragraph (b)(ii) of the Act (as amended by the *Natural Resources and Other Legislation Amendment Act 2019*) allows an entity to be declared, by regulation, to be a State electricity entity if:

- the entity is a GOC, GOC subsidiary or a government company; and
- the activities of the entity relate to the electricity industry, or the national electricity market within the meaning of the National Electricity (Queensland) Law.

CleanCo will meet this definition.

Declaring CleanCo to be a State electricity entity will ensure it is subject to the same regulatory framework as its GOC competitors, CS Energy Limited (CS Energy) and Stanwell Corporation Limited (Stanwell), namely being subject to (among other things):

- Ministerial directions under section 257 of the Act;
- employment provisions under chapter 8 of the *Electricity Regulation 2006*; and
- section 256 of the Act, which excludes the application of the *Judicial Review Act 1991*.

Achievement of policy objectives

The Regulation will commence after the commencement of the *Natural Resources and Other Legislation Amendment Act 2019* (NROLA Act) which amends the Act to provide for a GOC to be declared a state electricity entity under the *Electricity Regulation 2006*.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the authorising law to set a framework for all electricity industry participants that promotes efficient, economical and environmentally sound electricity supply and use.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other relevant legislation.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by declaring CleanCo to be a State electricity entity under the Regulation, as the declaration is required to ensure CleanCo

is subject to the same regulatory framework as its GOC competitors, CS Energy and Stanwell.

Benefits and costs of implementation

The Regulation will support CleanCo operating as the third energy generation GOC in Queensland, under the same regulatory framework as its GOC competitors, CS Energy and Stanwell. CleanCo will help achieve Queensland's Renewable Energy Target of 50 percent renewable energy generation and provide a structural long-term market based solution to put downward pressure on wholesale electricity prices. Through building, owning and operating renewable generation assets, CleanCo will also continue the Government's strong commitment to public ownership of electricity assets.

The Queensland Government is not expected to incur additional costs in implementing the Regulation. Costs of implementing the Regulation will be borne by CleanCo, and will not negatively affect electricity prices for Queenslanders.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles under the *Legislative Standards Act 1992*.

It is noted that CleanCo, the subject of this Regulation, is a corporate entity, not an individual.

Declaring CleanCo a State electricity entity is consistent with the treatment of the existing electricity generator GOCs with whom it will compete. The declaration of CleanCo as a State electricity entity also delivers protections to staff and to entities with whom CleanCo operates, through subjecting CleanCo to Ministerial directions under section 257 of the Act and the employment provisions under chapter 8 of the *Electricity Regulation 2006*.

Under section 256 of the Act, the *Judicial Review Act 1991* will not apply to decisions of CleanCo made in carrying out:

- its commercial activities; or
- any community service obligations prescribed under regulation.

This is an appropriate and proportionate provision in the context of the commercial and community service responsibilities placed upon State electricity entities.

The Regulation is made under a specific power of declaration by regulation under the Act, as amended by the NROLA Act, making a regulation rather than primary legislation the appropriate vehicle.

Consultation

As the entity the subject of this Regulation, CleanCo has been consulted in the drafting of this Regulation. Consultation did not result in any changes to the Regulation.

No community consultation was undertaken as the proposed amendments align with existing protections in place for other electricity generation GOCs (CS Energy and Stanwell). Broader consultation is not appropriate given the transaction concerns the internal management of the public sector. This Regulation has been agency self-assessed in accordance with the Queensland Government Guide to Better Regulation, self-assessment category (c) - Regulatory proposals for the internal management of the public sector or statutory authority.

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