Electricity and Another Regulation Amendment Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 94

made under the

Electricity Act 1994
Petroleum and Gas (Production and Safety) Act 2004

General Outline

Short title

This regulation may be cited as the *Electricity and Another Regulation Amendment Regulation (No. 1) 2014.*

Authorising law

Sections 92 and 263 of the *Electricity Act 1994* (Electricity Act)
Sections 423 and 859 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)

Policy objectives and the reasons for them

Solar Bonus Scheme

The Solar Bonus Scheme (the Scheme) is legislated under the Electricity Act and *Electricity Regulation 2006* (the Electricity Regulation). The Scheme allows eligible small customers with qualifying solar photovoltaic systems to receive a regulated feed-in tariff for the energy they export to the electricity grid. The Scheme applies to small customers across Queensland and currently offers new customers a regulated feed-in tariff rate of 8 cents per kilowatt-hour (c/kWh). This feed-in tariff offer is due to expire under the Electricity Regulation on 30 June 2014 and the Government has approved replacement feed-in tariff arrangements that meet the following objectives:

1. ensure small customers in regional Queensland continue to receive a feed-in tariff for electricity produced by a small photovoltaic generator installed at the premises and exported to the supply network, once the 8 c/kWh feed-in tariff expires; and
2. ensure that the cost of funding the mandatory feed-in tariff payment to these small customers is not borne by Queensland electricity consumers.

A healthy voluntary feed-in tariff market has emerged in South East Queensland (the Energex supply network) and further feed-in tariff regulation is unnecessary for Energex small customers. However, a mandatory feed-in tariff is necessary in regional Queensland (the Ergon Energy and Essential Energy supply networks) because there is limited retail competition to drive voluntary feed-in tariff offers for solar customers. Without regulatory intervention, regional Queensland solar customers will receive no payment for their exported solar power once the 8 c/kWh feed-in tariff expires, disadvantaging them over other Queensland solar customers who currently benefit from voluntary feed-in tariff offers.

Historically, the feed-in tariff rate has been set by the Queensland Government and funded by electricity distributors. The costs are then passed through to all Queensland electricity consumers via higher electricity prices. This policy outcome aligns poorly with the Government's commitment to reduce cost of living pressures for Queenslanders. Accordingly, one of the key policy objectives of the legislative changes is to ensure that the new mandatory feed-in tariff does not increase costs for Queensland electricity consumers. As electricity retailers benefit financially from on-selling the exported solar energy, the Queensland Competition Authority (QCA) has recommended a retailer-funded feed-in tariff set at market value to achieve this cost objective.

Australian Energy Market Commission (AEMC) Funding Levy

The objective is recovering Queensland's portion of the cost of funding the AEMC through the imposition of a levy on electricity transmission and gas pipeline licence holders that are regulated under the national energy laws.

This cost recovery model is consistent with best practice regulation principles that state it is more efficient and fair to fund regulation through collecting monies from the sector of the community that benefits – rather than through general taxation.

Achievement of policy objectives

Solar Bonus Scheme

New section 93 of the Electricity Act provides a head of power for the Minister to direct the QCA to decide a feed-in tariff for each tariff year. Schedule 5 of the Act defines 'feed-in tariff' as the rate that a prescribed retail entity providing customer retail services to a small customer's premises pays the small customer for energy produced by a small photovoltaic generator connected at the premise, and supplied to the network. Section 55DBA of the Act requires a retail entity prescribed by regulation to pay a feed-in tariff to eligible customers.

Retail entity Ergon Energy Queensland provides retail services for the majority of small customers in regional Queensland. Origin Energy Electricity Limited (Origin Energy) holds a Special Approval (No. SA02/11) under the Electricity Act to provide retail services to approximately 5700 Queensland non-market customers on New South Wales distributor Essential Energy's network in southern Queensland. The Special Approval commenced in 2011 and expires on 30 June 2020.

The amendment regulation prescribes Ergon Energy Queensland and the holder of Special Approval No. SA02/11 (Origin Energy) as the retail entities required to pay the feed-in tariff under sections 93 and 55DBA of the Electricity Act. Origin Energy is required to pay the feed-in tariff only to the extent that it provides retail services under the special approval. By prescribing these two retail entities specifically, the amendment regulation contributes to achieving the policy objective of a mandatory feed-in tariff that targets small customers in regional Queensland without access to market feed-in tariffs.

The amendments also seek to remove from the Electricity Regulation provisions related to the 8 c/kWh prescribed credit amount, due to the expiry on 30 June 2014 of those provisions.

AEMC Funding Levy

Amendments to section 31 of the Electricity Act and section 423 of the P&G Act provide for a levy on regulated electricity transmission authority holders and covered gas pipeline licence holders respectively.

This is considered the most appropriate method of recovering Queensland's AEMC payment from industry, as these bodies are subject to the National Electricity Rules and National Gas Rules, and therefore benefit from the functions of the AEMC. They also have the widest reach of customers that benefit from the work of the AEMC and are administratively the simplest point at which to implement a levy (all market gas and electricity passes through a small number of transmission systems). The approach is reasonable and appropriate as it will only recover the cost of the AEMC's national regulation functions and does not represent a revenue raising exercise.

The amendment regulation will support achievement of the policy objective by prescribing the detailed requirements for payment of the gas levy under the P&G Act.

Consistency with policy objectives of authorising law

Solar Bonus Scheme

The amendment regulation is consistent with the main objectives of related provisions in the Electricity Act that ensure the interests of consumers are protected and set a framework for all electricity industry participants that promotes efficient, economical and environmentally sound electricity supply and use.

AEMC Funding Levy

The amendment regulation is consistent with the main objectives of the related provisions in the P&G Act as they establish a framework to collect fees as a condition of holding a pipeline licence.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with any policy objectives of any other legislation.

Alternative ways of achieving policy objectives

Solar Bonus Scheme

There are no alternative means to achieve the policy objective to limit the application of the regulated feed-in tariff to regional Queensland small customers and ensure associated costs are not borne by Queensland electricity consumers.

AEMC Funding Levy

The Department of Energy and Water Supply assessed alternative forms of an industry levy. Short descriptions of the options and reasons for rejection are included in the table below.

OPTIONS ANALYSIS	
Option	**Reason for Rejection**
Amending the *Government Owned Corporations Act 1993* to mandate the payment of the levy from a Government Owned Corporation as a dividend	An amendment of the *Government Owned Corporations Act 1993* would only capture government-owned transmission entities. The cost recovery approach needs to be flexible enough to capture all transmission entities subject to the national rules regardless of ownership.
Levying just electricity transmission companies the full amount of the annual AEMC funding	A levy on just electricity transmission companies was rejected as the work of the AEMC covers both National Electricity and National Gas Rules; therefore levying one section of the energy industry would create an unequal burden on electricity transmission companies.
Levying multiple levels of market participants	Levying multiple market participants was rejected in favour of levying just transmission participants for administrative simplicity.
A coordinated national approach to cost recovery	Industry funding of the AEMC and Australian Energy Regulator was initially considered by the Ministerial Council on Energy (MCE) as part of the establishment of these bodies in 2005. The MCE considered a number of options but agreement could not be reached on the format of industry cost recovery. Since then, South Australia, New South Wales, Tasmania and the Australian Capital Territory have implemented industry cost recovery models. Those models were reviewed during the development of the preferred model for Queensland.

The preferred model, a levy on regulated electricity transmission entities and covered gas pipelines, is considered the most appropriate method of recovering Queensland's AEMC payment from industry.

Benefits and costs of implementation

Solar Bonus Scheme

The benefits of implementation are that small customers in regional Queensland with solar photovoltaic will continue to receive a feed-in tariff for their exported solar energy and that this will not add costs to other Queensland electricity consumers.

No additional costs to the Government are anticipated with the proposal. Ergon Energy Queensland and Origin Energy Electricity Limited may incur minor costs where systems, administration and operational adjustments are required to implement the changes, but these businesses are expected to benefit financially from on-selling the solar energy produced.

AEMC Funding Levy

The amendments introduce a new cost recovery model that is consistent with best practice regulation principles stating it is more efficient and fair to fund regulation through collecting monies from the sector of the community that benefits (in this case, the energy industry and its customers), rather than through general taxation.

The amendments will be implemented by the Government from within existing resources.

The cost of the new levy will flow through to energy prices but the impact is expected to be extremely small at less than $1.00 per year per household for electricity customers (from 2017); and around 0.32 cents per gigajoule, or less than 0.1 per cent of the current wholesale gas price for gas customers.

Consistency with fundamental legislative principles

The amendments have been drafted having regard to the Fundamental Legislative Principles (FLPs) outlined in the *Legislative Standards Act 1992* and there are no matters that are inconsistent with the FLPs.

Consultation

Consultation was undertaken with key government agencies and with key affected stakeholders about the policy objectives of both the Solar Bonus and AEMC proposals.

The Office of Best Practice Regulation has been consulted regarding the need for a Regulatory Impact Statement (RIS) and confirmed a RIS is not necessary.

Consultation about the Solar Bonus regulation has been undertaken with the Department of the Premier and Cabinet and Queensland Treasury and Trade. The Department of Natural Resources and Mines was also consulted during development of the AEMC regulation to prescribe the details for the levy under the P&G Act. No objections were raised by these agencies.