

TASMANIA

**ELECTRICITY SUPPLY INDUSTRY (PRICING
AND RELATED MATTERS) REGULATIONS 2023**

STATUTORY RULES 2023, No. 16

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ELECTRICITY SUPPLY INDUSTRY (PRICING AND RELATED MATTERS) REGULATIONS 2023

I, the Lieutenant-Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Electricity Supply Industry Act 1995*.

Dated 8 May 2023.

A. M. BLOW
Lieutenant-Governor

By His Excellency's Command,

MICHAEL DARREL JOSEPH FERGUSON
Treasurer

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the *Electricity Supply Industry (Pricing and Related Matters) Regulations 2023*.

2. Commencement

These regulations take effect on 29 May 2023.

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3. Interpretation

In these regulations, unless the contrary intention appears –

Act means the *Electricity Supply Industry Act 1995*;

Cabinet record means a record which –

- (a) is referred to in section 26(1) of the *Right to Information Act 2009*; and
- (b) contains exempt information, within the meaning of that Act, to which that section applies;

compliance investigation means an investigation under Part 6 for the purposes of regulation 22;

contract includes agreement and arrangement;

daily newspaper means a daily newspaper circulating generally in Tasmania or in Australia;

declaration of a declared electrical service means a declaration made under section 40AD(1) of the Act, as the declaration is amended, if at all, under section 40AD(4) of the Act;

declared electrical service means goods, or a service, declared under section 40AD(1)

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of the Act to be a declared electrical service;

declared electrical service price determination means a determination made under section 40AD(5) of the Act, as the determination is amended, if at all, under section 40AD(7) of the Act;

distribution determination means a distribution determination, made in accordance with the National Electricity Rules, that is in force;

feed-in tariff rate determination means a feed-in tariff determination rate made in accordance with regulation 47;

final report means a final report in respect of a pricing investigation;

function includes duty;

investigation, means a pricing investigation or a compliance investigation;

ministerial charter has the same meaning as it has in the *Government Business Enterprises Act 1995*;

notice of compliance investigation means, in relation to a compliance investigation, a notice in respect of the investigation that is given under regulation 23(1), as the notice is amended, if at all, under regulation 23(4);

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notice of pricing investigation means, in relation to a pricing investigation –

- (a) a notice in respect of the investigation that is given under regulation 6(1), as the notice is amended, if at all, under regulation 6(4); and
- (b) a notice in respect of the investigation that is given under regulation 18(1), as the notice is amended, if at all, under regulation 18(4); and
- (c) a notice in respect of the investigation that is given under regulation 33(1) as the notice is amended, if at all, under regulation 33(4); and
- (d) a notice in respect of the investigation that is given under regulation 45(1), as the notice is amended, if at all, under regulation 45(4);

price includes a tariff and a charge;

price-regulated retail service price determination means a determination made, in accordance with regulation 8, under section 40AA(1) of the Act, as the determination is amended, if at all, under section 40AA(3) of the Act;

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pricing investigation means an investigation under Part 6 for the purposes of regulation 5, regulation 17, regulation 30 or regulation 44;

pricing policies, in relation to a pricing investigation, includes –

- (a) policies relating to the level or structure of prices; and
- (b) if the pricing investigation relates to an electrical service that relates to the Bass Strait Islands, policies relating to the conditions that may be included in a contract, in relation to the declared electrical service, entered into by –
 - (i) an electricity entity or authorised retailer; and
 - (ii) a customer at premises in the Bass Strait Islands;

provide includes, where appropriate, to supply electricity;

relevant tax means a tax, charge, levy, duty, or imposition, that –

- (a) is directly attributable to the provision of goods or a service specified in a transmission determination, a distribution determination, a declaration of a

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declared electrical service or a price-regulated retail service price determination; and

- (b) in the opinion of the Regulator, is not normally absorbed by businesses in a fully competitive market –

but does not include –

- (c) an income tax, income tax equivalent, fringe benefits tax or capital gains tax; or
- (d) a tax, charge, levy, duty, or imposition, that replaces a tax referred to in paragraph (c); or
- (e) a fee or charge payable under the Act, the regulations, the Code, the National Electricity Rules or section 233 of the National Energy Retail Law (Tasmania); or
- (f) a renewable energy shortfall charge under section 36 of the *Renewable Energy (Electricity) Act 2000* of the Commonwealth; or
- (g) an amount payable under a contract; or
- (h) a fine or other penalty;

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rescinded regulations means the *Electricity Supply Industry (Pricing and Related Matters) Regulations 2013* rescinded by these regulations;

tax event, in relation to a transmission determination, a distribution determination, a declared electrical service price determination or a price-regulated retail service price determination, means –

- (a) the imposition on an electricity entity, an authorised retailer or a regulated offer retailer of an obligation to pay an amount that –
 - (i) it was not obliged to pay at the time at which the determination was made; and
 - (ii) arises from the imposition of a relevant tax; or
- (b) a change in the manner in which, or the rate at which, a relevant tax is calculated, which results in a change, in an amount that an electricity entity, an authorised retailer or a regulated offer retailer is required to pay, whether –
 - (i) directly; or

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(ii) by reason of an adjustment under a contract of an amount payable under that contract –

in respect of relevant taxes, from the amount that the electricity entity, authorised retailer or regulated offer retailer was required to pay in respect of such taxes at the time at which the determination was made; or

(c) the removal of a relevant tax which results in a change, in an amount that an electricity entity, an authorised retailer or a regulated offer retailer is required to pay, whether –

(i) directly; or

(ii) by reason of an adjustment under a contract of an amount payable under that contract –

in respect of relevant taxes, from the amount that the electricity entity, authorised retailer or regulated offer retailer was required to pay in respect of such

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taxes at the time at which the
determination was made;

transmission determination means a
transmission determination, made in
accordance with the National Electricity
Rules, that is in force;

2022 Price Determination means the
determination made on 29 April 2022 by
the Regulator under regulation 12 of the
rescinded regulations as in force at the
time at which the determination was
made.

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PART 2 – RETAIL PRICING DETERMINATIONS

Division 1 – 2022 Price Determination

4. Continuation of 2022 retail price determination

The 2022 Price Determination is to be taken to be, until immediately before 1 July 2025, a determination made in accordance with this Part under section 40AA(1) of the Act.

Division 2 – Pricing investigations

5. Pricing investigation to be conducted before expiry of certain determinations

- (1) At a reasonable time before the expiry of an existing price-regulated retail service price determination in relation to a regulated offer retailer, the Regulator is to conduct, in relation to the regulated offer retailer, a pricing investigation for the purposes of this regulation.
- (2) The objective of a pricing investigation for the purposes of this regulation in relation to a regulated offer retailer is to provide information to the Regulator to enable the Regulator to make a determination under section 40AA(1) of the Act in relation to the regulated offer retailer.

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6. Notice of investigation to be given

- (1) Before conducting a pricing investigation for the purposes of regulation 5, the Regulator –
 - (a) is to give to the Minister notice in writing of the investigation (*notice of pricing investigation*); and
 - (b) is to give a copy of the notice to the regulated offer retailer to which the investigation is to relate; and
 - (c) is to publish a copy of the notice in such daily newspapers, or in such other manner, as the Regulator considers appropriate.
- (2) A notice of pricing investigation for the purposes of regulation 5 is to specify –
 - (a) the objective of the investigation; and
 - (b) the period within which, and the form in which, submissions may be made to the Regulator; and
 - (c) the matters that the Regulator would like submissions to address; and
 - (d) the date by which the Regulator is to complete the pricing investigation by providing a final report in relation to the investigation.
- (3) Before conducting a pricing investigation for the purposes of regulation 5, the Regulator is to

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ensure that a copy of the notice of pricing investigation in relation to the investigation is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a reasonable time.

- (4) The Regulator may amend a notice of pricing investigation by notice in writing, setting out the amendment, given to the Minister and to the regulated offer retailer to which the pricing investigation relates.
- (5) The Regulator may not amend under subregulation (4) the objective specified, in accordance with subregulation (2)(a), in a notice of pricing investigation.
- (6) If the Regulator amends under subregulation (4) a notice of pricing investigation, the Regulator is to –
 - (a) give notice of the amendment in such daily newspapers, or in such other manner, as the Regulator considers appropriate; and
 - (b) ensure that a copy of the notice given under subregulation (4) is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a reasonable time.

7. Contents of final report

The final report in relation to a pricing investigation for the purposes of regulation 5 is to set out –

- (a) a summary of the information obtained by the Regulator during the investigation; and
- (b) a statement as to the determination that the Regulator intends to make under section 40AA(1) of the Act.

Division 3 – Price-regulated retail service price determinations

Subdivision 1 – Making of price-regulated retail service price determinations

8. Price-regulated retail services price determinations

- (1) After completing the final report in relation to a pricing investigation for the purposes of regulation 5, the Regulator is to make a determination under section 40AA(1) of the Act (a ***price-regulated retail service price determination***) in relation to the regulated offer retailer to which the investigation relates.
- (2) A price-regulated retail service price determination may be expressed in one or more of the following terms or manners:

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- (a) maximum prices or the maximum rate of increase or the minimum rate of decrease in maximum prices;
 - (b) average prices or average rates of increase or decrease in average prices;
 - (c) pricing policies or principles;
 - (d) by reference to a general price index, the cost of production, revenue, a rate of return on assets or any other factor;
 - (e) by reference to quantity, location or period of provision of the services to small customers under standard retail contracts;
 - (f) by reference to a maximum revenue;
 - (g) any other terms that the Regulator considers appropriate.
- (3) A price-regulated retail service price determination is to specify the date on which the determination takes effect and the date on which the determination expires.
- (4) A date specified in a price-regulated retail service price determination as the date on which the determination is to take effect may not be a date that occurs before the determination is made.
- (5) A price-regulated retail service price determination –

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- (a) is to allow for an adjustment to the prices that may be charged by, and to the price control mechanisms imposed on, a regulated offer retailer under the determination as a result of a tax event or a material change in circumstances in relation to the provision to small customers of services under standard retail contracts; and
- (b) is to specify –
- (i) the method of calculating that adjustment; or
 - (ii) the principles to be applied in making the adjustment to the prices or to the price control mechanisms or in calculating the adjustment, and the general manner in which those principles are to be applied.
- (6) In specifying in a price-regulated retail service price determination –
- (a) the method of calculating an adjustment referred to in subregulation (5); or
 - (b) the principles to be applied in making the adjustment to the prices or to the price control mechanisms or in calculating the adjustment, and the general manner in which those principles are to be applied –

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the Regulator is to ensure that the adjustment reflects the full financial effect, to the regulated offer retailer to which the determination relates, of the tax event or material change in circumstances.

- (7) A price-regulated retail service price determination may have a differential application that varies according to factors stated in the determination.

9. Matters to be considered

In making a price-regulated retail service price determination in relation to a regulated offer retailer, the Regulator is to consider the following matters:

- (a) any interstate or international benchmarks for prices, costs, revenues and return on assets in bodies providing a service similar to the services, under a standard retail contract with a small customer, to which the determination relates;
- (b) the effects of inflation;
- (c) the impact on pricing policies of any borrowing, capital, dividend, or taxation, obligations of the regulated offer retailer, including obligations to renew or increase assets;

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- (d) the quality of the provision of services, to small customers under standard retail contracts, of the regulated offer retailer;
 - (e) any licence, obligation, or retailer authorisation, under the Act, any regulations made under the Act, the National Energy Retail Law (Tasmania), the National Energy Retail Regulations (Tasmania), the *National Energy Retail Law (Tasmania) Act 2012* and any regulations made under that Act, that apply, or are likely to apply, to the regulated offer retailer;
 - (f) the Code;
 - (g) the National Electricity Rules;
 - (h) any costs (including capital expenditure) incurred by the regulated offer retailer;
 - (i) the public interest;
 - (j) the protection of consumers of electricity;
 - (k) any other matter that the Regulator considers relevant.

10. Notice to be given of making of price-regulated retail service price determination

- (1) As soon as practicable after making a price-regulated retail service price determination, the Regulator must –

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- (a) give a copy of the determination to –
 - (i) the Minister; and
 - (ii) the regulated offer retailer to which the determination relates; and
 - (b) publish, in such daily newspapers, or in such other manner, as the Regulator considers appropriate, notice that the determination has been made and that a copy of the determination –
 - (i) may be obtained at a place specified in the notice; and
 - (ii) may be viewed and downloaded at a website specified in the notice.
- (2) As soon as practicable after making a price-regulated retail service price determination, the Regulator is to ensure that a copy of the determination is available –
- (a) for viewing and downloading at a website specified by the Regulator; and
 - (b) in paper form; and
 - (c) in any other form that the Regulator considers appropriate.

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11. When price-regulated retail service price determination takes effect and ends

- (1) A price-regulated retail service price determination (the *new determination*) that relates to a regulated offer retailer takes effect –
 - (a) if at the time when the new determination is made there is in force no other such determination in relation to the regulated offer retailer – on the date specified in the new determination as the date on which the determination is to take effect; or
 - (b) if at the time when the new determination is made there is in force another such determination in relation to the regulated offer retailer, that has not yet reached its expiry date – on the expiry or revocation of the other determination; or
 - (c) if at the time when the new determination is made there is in force, by reason of subregulation (3), another such determination in relation to the regulated offer retailer – on the date specified in the new determination as the date on which the determination is to take effect.
- (2) A price-regulated retail service price determination that relates to a regulated offer retailer ceases to have effect –

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- (a) if the determination is revoked – on the date on which that revocation takes effect; or
 - (b) if the determination, by reason of subregulation (3), is continued after the date on which it would normally expire – on the date on which another price-regulated retail service price determination in relation to the retailer takes effect; or
 - (c) in any other case – on the date specified in the determination as the date on which it expires.
- (3) If, on the date on which a price-regulated retail service price determination is due to expire, a pricing investigation is being conducted for the purposes of regulation 5, that determination continues to have effect.

12. Adjustment to prices in determination

- (1) In this regulation –

adjustment means an adjustment to the prices that a regulated offer retailer may charge, or to the price control mechanisms imposed on a regulated offer retailer, or both, under a price-regulated retail service price determination –

- (a) as a result of the occurrence of a tax event; or

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- (b) as a result of a material change in costs to the regulated offer retailer, to which the determination relates, in relation to the provision to small customers of services under standard retail contracts.
- (2) The Regulator, by notice to a regulated offer retailer, may specify that an adjustment, specified in the notice, is approved and takes effect on the date specified in the notice as the date on which the adjustment is to take effect.
- (3) An adjustment takes effect on the date specified in a notice under subregulation (2) as the date on which the adjustment is to take effect.
- (4) The Regulator is to notify a regulated offer retailer if, when considering whether to approve an adjustment, the Regulator determines that –
- (a) a tax event; or
 - (b) a material change in costs to the retailer in relation to the provision to small customers of services under standard retail contracts –
- has not occurred.
- (5) The Regulator is not to approve an adjustment unless the Regulator is satisfied that the adjustment has been calculated in accordance with –

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- (a) the method of calculating that adjustment; or
- (b) the principles to be applied in making the adjustment to the prices or to the price control mechanisms or in calculating the adjustment, and the general manner in which those principles are to be applied –

specified in the price-regulated retail service price determination to which the adjustment relates.

- (6) On approving or refusing to approve an adjustment, the Regulator is to notify the regulated offer retailer to which the adjustment relates.

Subdivision 2 – Amendment or revocation of price-regulated retail service price determinations

13. Amendment or revocation of price-regulated retail service price determinations

- (1) The Regulator may amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination if, in the opinion of the Regulator, the regulated offer retailer to which the determination relates is affected materially and adversely as a result of the making, amendment or revocation of a transmission determination or a distribution determination.

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- (2) The Regulator may amend or revoke a price-regulated retail service price determination under section 40AA(3) of the Act if the Regulator determines –
- (a) that the determination was made on the basis of information, provided by the regulated offer retailer to which the determination relates, that was false or misleading in a material particular; or
 - (b) that there is a material error in the determination; or
 - (c) that –
 - (i) the regulated offer retailer to which the determination relates is affected materially and adversely by the determination as a result of an event which is beyond the retailer’s reasonable control and was not taken into account in the terms of the determination; and
 - (ii) the benefits of amending or revoking the determination would outweigh any detriment, to the regulated offer retailer to which the determination relates, or any customer of such a retailer, that might result from the amendment or revocation of the determination.

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- (3) An amendment or revocation of a price-regulated retail service price determination takes effect on the date specified in the amendment or revocation.
- (4) Regulation 10 applies in relation to an amendment or revocation under section 40AA(3) of the Act of a price-regulated retail service price determination as if the amendment or revocation were a price-regulated retail service price determination.

14. Process for amendment or revocation

- (1) Before amending or revoking under section 40AA(3) of the Act a price-regulated retail service price determination, the Regulator is to invite submissions in respect of whether the determination ought to be amended or revoked.
- (2) The invitation referred to in subregulation (1) is to –
 - (a) be in writing; and
 - (b) specify a reasonable period within which the submissions may be made.
- (3) The Regulator is to –
 - (a) give a copy of the invitation to –
 - (i) the Minister; and
 - (ii) the regulated offer retailer to which relates the price-regulated

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retail service price determination
that the Regulator is considering
amending or revoking; and

- (b) publish a copy of the invitation in such daily newspapers, or in such other manner, as the Regulator considers appropriate.
- (4) The Regulator is only to amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination –
- (a) after the expiry of the period within which submissions may, under the invitation referred to in subregulation (1), be made in relation to the determination; and
 - (b) after considering any such submissions received.
- (5) Subject to these regulations, for the purpose of determining whether or not to amend or revoke a price-regulated retail service price determination under section 40AA(3) of the Act, the Regulator may do any or all of the following:
- (a) consult with any person;
 - (b) hold seminars;
 - (c) hold hearings;
 - (d) do anything that the Regulator considers necessary or convenient.

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- (6) In determining whether or not to amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination, the Regulator is not bound by the rules of evidence but may inform itself of any matter in any manner that the Regulator considers appropriate.
- (7) If the Regulator decides to hold a hearing for the purpose of determining whether or not to amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination, regulation 58 applies as if the hearing were a hearing in respect of a pricing investigation.
- (8) Regulations 59 and 60 apply in relation to the determining by the Regulator of whether or not to amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination, as if the Regulator were conducting a pricing investigation.

15. Cost of investigations and determinations

- (1) In this regulation, each of the following is a relevant activity of the Regulator in respect of a regulated offer retailer:
 - (a) the conduct and reporting of a pricing investigation in relation to the regulated offer retailer, and the giving, or publication, under these regulations of any notice required under these regulations to be given in relation to such an investigation or report;

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- (b) the making, amending, adjustment or revocation under section 40AA of the Act of a price-regulated retail service price determination, that relates to the regulated offer retailer and the publishing under these regulations of a copy of the determination, amendment or revocation.
- (2) The Regulator may send a notice of expenses to a regulated offer retailer in relation to a relevant activity of the Regulator.
- (3) A notice of expenses to a regulated offer retailer is a notice specifying –
 - (a) the amount of the expenses determined by the Regulator to be payable by the regulated offer retailer in respect of all or part of the expenses, reasonably incurred by the Regulator, arising from a relevant activity of the Regulator in respect of the regulated offer retailer; and
 - (b) the date on or before which the expenses are to be paid by the regulated offer retailer.
- (4) A date specified in a notice to a regulated offer retailer in accordance with subregulation (3)(b) is not to be earlier than 30 days after the notice is sent to the regulated offer retailer.
- (5) A regulated offer retailer to which a notice of expenses is sent is liable to pay, to the Regulator, on or before the date specified in the notice as

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the date by which the amount is to be paid, the amount of the expenses specified in the notice.

- (6) The Regulator may recover in a court of competent jurisdiction, as a debt due and owing, an amount that a regulated offer retailer is liable to pay under subregulation (5).

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*Division 1 – Pricing investigations and approvals under
section 43G of Act*

16. Saving of approval under section 43G of the Act

An approval under section 43G(1) of the Act that was made by the Regulator, and is in force immediately before the day on which these regulations commence, remains in force until 30 June 2024.

17. Pricing investigations as to whether to make or revoke approval under section 43G of Act

- (1) The Regulator must conduct a pricing investigation for the purposes of this regulation before making or revoking an approval under section 43G of the Act.
- (2) The objective of a pricing investigation under this regulation is to –
 - (a) provide information to the Regulator to enable the Regulator to determine whether (and on what terms) to make an approval under section 43G of the Act; or
 - (b) provide information to the Regulator to enable the Regulator to determine whether to revoke an approval under section 43G of the Act –

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or both.

18. Notice of investigation to be given

- (1) Before conducting a pricing investigation for the purposes of regulation 17, the Regulator –
 - (a) is to give to the Minister notice in writing of the investigation (*notice of pricing investigation*); and
 - (b) is to give a copy of the notice to the Hydro-Electric Corporation; and
 - (c) is to give a copy of the notice to the authorised retailers, if any, that the Regulator considers ought to be given a copy of the notice; and
 - (d) is to publish a copy of the notice in such daily newspapers, or in such other manner, as the Regulator considers appropriate.
- (2) A notice of pricing investigation for the purposes of regulation 17 is to specify –
 - (a) the objective of the investigation; and
 - (b) the period within which, and the form in which, submissions may be made to the Regulator; and
 - (c) the matters that the Regulator would like submissions to address; and

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-
- (d) the date by which the Regulator is to complete the pricing investigation by providing a final report in relation to the investigation.
- (3) Before conducting a pricing investigation for the purposes of regulation 17, the Regulator is to ensure that a copy of the notice of pricing investigation in relation to the investigation is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a reasonable time.
- (4) The Regulator may amend a notice of pricing investigation by notice in writing, setting out the amendment, given to the Minister, the Hydro-Electric Corporation and such authorised retailers, if any, as the Regulator considers ought to be given a copy of the notice.
- (5) The Regulator may not amend under subregulation (4) the objective specified, in accordance with subregulation (2)(a), in a notice of pricing investigation.
- (6) If the Regulator amends under subregulation (4) a notice of pricing investigation, the Regulator is to –
- (a) give notice of the amendment in such daily newspapers, or in such other manner, as the Regulator considers appropriate; and
 - (b) ensure that a copy of the notice given under subregulation (4) is available, for

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viewing and downloading by a member of the public, at a website of the Regulator, for a period of not less than 6 months.

19. Final report

The final report in relation to a pricing investigation for the purposes of regulation 17 is to set out –

- (a) a summary of the information obtained by the Regulator during the investigation; and
- (b) the decision of the Regulator as to whether (and on what terms) to make or revoke an approval under section 43G of the Act, or both.

20. Making or revocation of approvals under section 43G of Act

After completing the final report in relation to a pricing investigation for the purposes of regulation 17, the Regulator is to, if the Regulator thinks fit –

- (a) make an approval under section 43G of the Act; or
- (b) revoke an approval under section 43G(4) of the Act; or
- (c) take both such actions.

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21. Cost of investigations and approvals

- (1) In this regulation, each of the following is a relevant activity of the Regulator in respect of the Hydro-Electric Corporation:
 - (a) the conduct and reporting of a pricing investigation for the purposes of regulation 17 and the giving, or publication, of any notice required under these regulations to be given in relation to such an investigation or report;
 - (b) the making or revocation of an approval under section 43G of the Act pursuant to the final report and the publishing of a copy of the approval or revocation.
- (2) The Regulator may send a notice of expenses to the Hydro-Electric Corporation in relation to a relevant activity of the Regulator.
- (3) A notice of expenses to the Hydro-Electric Corporation is a notice specifying –
 - (a) the amount of the expenses determined by the Regulator to be payable by the Hydro-Electric Corporation in respect of all or part of the expenses, reasonably incurred by the Regulator, arising from a relevant activity of the Regulator; and
 - (b) the date on or before which the expenses are to be paid by the Hydro-Electric Corporation.

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- (4) A date specified in a notice to the Hydro-Electric Corporation in accordance with subregulation (3)(b) is not to be earlier than 30 days after the notice is sent to the Corporation.
- (5) If a notice of expenses is sent to the Hydro-Electric Corporation, the Hydro-Electric Corporation is liable to pay, to the Regulator, on or before the date specified in the notice as the date by which the amount is to be paid, the amount of the expenses specified in the notice.
- (6) The Regulator may recover in a court of competent jurisdiction, as a debt due and owing, an amount that the Hydro-Electric Corporation is liable to pay under subregulation (5).

Division 2 – Compliance investigations and approvals under section 43M of Act

22. Compliance investigations

- (1) An authorised retailer that retails electricity in Tasmania may request the Regulator to consider making an approval under section 43M(1) of the Act.
- (2) The Regulator must conduct a compliance investigation for the purposes of this regulation –
 - (a) if the Regulator decides, after considering a request under subregulation (1) from an authorised retailer, to conduct a compliance

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- investigation in relation to the request;
and
- (b) in any case, before making an approval under section 43M(1) of the Act.
- (3) If, the Regulator decides, after considering a request under subregulation (1) from an authorised retailer to consider making an approval under section 43M(1) of the Act, not to conduct a compliance investigation in relation to the request, the Regulator must –
- (a) give a notice in writing to the authorised retailer providing reasons as to why the Regulator has not conducted the investigation; and
- (b) ensure that a copy of the notice is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a period of not less than 6 months.
- (4) The objective of a compliance investigation for the purposes of this regulation is to enable the Regulator to determine –
- (a) whether there has been a significant, deliberate or repeated failure by the Hydro-Electric Corporation to correctly apply the approved methodology in the calculation of prices to be applied in contracts to which section 43M(1) of the Act applies; and

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- (b) if there has been such a failure, whether the Regulator ought to make an approval under section 43M(1) of the Act.

23. Notice of investigation to be given

- (1) Before conducting a compliance investigation for the purposes of regulation 22, the Regulator –
 - (a) is to give to the Minister notice in writing of the investigation (*notice of compliance investigation*); and
 - (b) is to give a copy of the notice to the Hydro-Electric Corporation; and
 - (c) is to give a copy of the notice to the authorised retailer, if any, to whose request under regulation 22(1) the investigation relates; and
 - (d) is to give a copy of the notice to the authorised retailers, if any, that the Regulator considers ought to be given a copy of the notice; and
 - (e) is to publish a copy of the notice in such daily newspapers, or in such other manner, as the Regulator considers appropriate.
- (2) A notice of compliance investigation for the purposes of regulation 22 is to specify –
 - (a) the objective of the investigation; and

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- (b) the period within which, and the form in which, submissions may be made to the Regulator; and
 - (c) the matters that the Regulator would like submissions to address; and
 - (d) the date by which the Regulator is to complete the pricing investigation by providing a final report in relation to the investigation.
- (3) Before conducting a compliance investigation for the purposes of regulation 22, the Regulator is to ensure that a copy of the notice of compliance investigation in relation to the investigation is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a period of not less than 30 days.
- (4) The Regulator may amend a notice of compliance investigation by notice in writing, setting out the amendment, given to the Minister, the Hydro-Electric Corporation and such authorised retailers, if any, as the Regulator considers ought to be given a copy of the notice.
- (5) The Regulator may not amend under subregulation (4) the objective specified, in accordance with subregulation (2)(a), in a notice of compliance investigation.
- (6) If the Regulator amends under subregulation (4) a notice of compliance investigation, the Regulator is to –

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- (a) give notice of the amendment in such daily newspapers, or in such other manner, as the Regulator considers appropriate; and
- (b) ensure that a copy of the notice given under subregulation (4) is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a reasonable time.

24. Final report

The final report in relation to a compliance investigation for the purposes of regulation 22 is to set out –

- (a) a summary of the information obtained by the Regulator during the investigation; and
- (b) whether the Regulator is of the opinion that there has been a significant, deliberate or repeated failure by the Hydro-Electric Corporation to correctly apply the approved methodology in the calculation of prices to be applied in contracts to which section 43M(1) of the Act applies; and
- (c) if the Regulator is of the opinion that there has been a significant, deliberate or repeated failure by the Hydro-Electric Corporation to correctly apply the approved methodology in the calculation

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of prices to be applied in contracts to which section 43M of the Act applies – the decision of the Regulator as to whether (and on what terms) to make an approval under section 43M(1) of the Act.

25. Making of approvals under section 43M of Act

After completing the final report in relation to a pricing investigation for the purposes of regulation 22, the Regulator is to make, if the Regulator thinks fit, an approval under section 43M(1) of the Act in respect of contracts to which section 43M(1) of the Act applies.

26. Cost of investigations and approvals

- (1) In this regulation, each of the following is a relevant activity of the Regulator in respect of the Hydro-Electric Corporation or an authorised retailer:
 - (a) the conduct and reporting of a compliance investigation for the purposes of regulation 22 and the giving, or publication, of any notice required under these regulations to be given in relation to such an investigation or report;
 - (b) the making or revocation of an approval under section 43M(1) or (4) of the Act

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and the publishing of a copy of the approval or revocation.

- (2) The Regulator may send –
 - (a) a notice of expenses to the Hydro-Electric Corporation in relation to a relevant activity of the Regulator; and
 - (b) a notice of expenses to an authorised retailer, but only if subregulation (4) applies in relation to the authorised retailer.
- (3) A notice of expenses to the Hydro-Electric Corporation, or an authorised retailer, is a notice specifying –
 - (a) the amount of the expenses determined by the Regulator to be payable by the Hydro-Electric Corporation, or the authorised retailer, in respect of all or part of the expenses, reasonably incurred by the Regulator, arising from a relevant activity of the Regulator; and
 - (b) the date on or before which the expenses are to be paid by the Hydro-Electric Corporation or the authorised retailer.
- (4) If the Regulator has determined under these regulations that an approval to which a compliance investigation, conducted pursuant to a request under regulation 22(1) from an authorised retailer, relates, is not required to be made, the costs of the conduct and reporting of

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the compliance investigation and the giving, or publication, of any notice required under these regulations to be given in relation to such an investigation or report –

- (a) may be specified in a notice of expenses issued to the authorised retailer; and
 - (b) may not be included in a notice of expenses issued to the Hydro-Electric Corporation.
- (5) A date specified in a notice to the Hydro-Electric Corporation or an authorised retailer in accordance with subregulation (3)(b) is not to be earlier than 30 days after the notice is sent to the Hydro-Electric Corporation or the retailer.
- (6) If a notice of expenses is sent to the Hydro-Electric Corporation or an authorised retailer, the Hydro-Electric Corporation or the authorised retailer, respectively, is liable to pay, to the Regulator, on or before the date specified in the notice as the date by which the amount is to be paid, the amount of the expenses specified in the notice.
- (7) The Regulator may recover in a court of competent jurisdiction, as a debt due and owing, an amount that the Hydro-Electric Corporation or an authorised retailer is liable to pay under subregulation (6).

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PART 4 – DECLARED ELECTRICAL SERVICES

Division 1 – Declaration of declared electrical services

27. Notice to be given of intention to make declaration of declared electrical services

Before making under section 40AD(1) of the Act a declaration of a declared electrical service, the Regulator must –

- (a) give written notice of the Regulator’s intention to make the declaration, and the reasons for making the declaration, to the electricity entity or authorised retailer that the Regulator intends to specify in the declaration; and
- (b) publish that notice in such daily newspapers, or in such other manner, as the Regulator considers appropriate; and
- (c) allow the electricity entity or authorised retailer, and any other person, to make written submissions to the Regulator in respect of the matter within the period, being a reasonable period, that is specified in that notice.

28. When declaration takes effect

- (1) A declaration of a declared electrical service under section 40AD(1) of the Act takes effect on and from the date specified in the declaration and remains in effect until it is revoked.

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- (2) A date specified in a declaration under section 40AD(1) of the Act may not be a date before the declaration is made.

29. Amendment or revocation of declaration

- (1) Regulations 27 and 28 apply in respect of an amendment or revocation under section 40AD(4) of the Act of a declaration of a declared electrical service as if the revocation or amendment were a declaration under section 40AD(1) of the Act.
- (2) If a declaration of a declared electrical service is amended, the amendment does not invalidate a pricing investigation, in respect of the goods or service to which the declaration relates, that is being conducted at the time of the amendment.

Division 2 – Pricing investigations in respect of declared electrical services

30. Pricing investigation for new declared electrical services to be conducted

- (1) If the Regulator makes under section 40AD(1) of the Act a declaration of a declared electrical service, the Regulator is to conduct a pricing investigation in relation to the declaration for the purposes of this regulation.
- (2) The objective of a pricing investigation for the purposes of this regulation is to investigate the pricing policies of the electricity entity or

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authorised retailer that provides the declared electrical service to which the investigation relates.

31. Regulator to consider, before expiry of existing determination, whether to revoke declaration

- (1) Not later than 6 months before the expiry of a declared electrical service price determination in respect of a declared electrical service, the Regulator is to invite submissions in respect of whether the declaration of a declared electrical service to which the determination relates should be retained or revoked.
- (2) The invitation referred to in subregulation (1) is to –
 - (a) be in writing; and
 - (b) specify a reasonable period within which the submissions may be made.
- (3) The Regulator is to –
 - (a) give a copy of the invitation to –
 - (i) the Minister; and
 - (ii) the electricity entity or authorised retailer providing the declared electrical service to which the determination relates; and
 - (b) publish a copy of the invitation in such daily newspapers, or in such other

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manner, as the Regulator considers appropriate.

- (4) After the expiry of the period within which submissions may, under the invitation referred to in subregulation (1), be made in relation to a declaration of a declared electrical service, and after considering any such submissions received, the Regulator is to determine whether to –
 - (a) retain the declaration; or
 - (b) revoke the declaration under section 40AD(4) of the Act.
- (5) If the Regulator determines under subregulation (4) to revoke under section 40AD(4) of the Act the declaration of a declared electrical service, the Regulator is to so revoke the declaration.
- (6) Regulation 27 does not apply to a revocation of a declaration of a declared electrical service in accordance with subregulation (5).

32. Pricing investigation to be conducted

- (1) If the Regulator determines under regulation 31(4) to retain the declaration of a declared electrical service, the Regulator is to conduct, within a reasonable time, a pricing investigation in respect of the declared electrical service.

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- (2) The objective of a pricing investigation in accordance with this regulation in respect of a declared electrical service is to –
- (a) investigate the pricing policies of the electricity entity or authorised retailer providing the declared electrical service; and
 - (b) consider whether to determine under section 40AD(5) of the Act maximum prices in respect of those services.

33. Notice of pricing investigation to be given

- (1) Before conducting a pricing investigation for the purposes of regulation 30 or 32, the Regulator –
- (a) is to give to the Minister notice in writing of the investigation (*notice of pricing investigation*); and
 - (b) is to give a copy of the notice to the electricity entity, or authorised retailer, providing the declared electrical service to which the investigation is to relate; and
 - (c) is to publish a copy of the notice in such daily newspapers, or in such other manner, as the Regulator considers appropriate.
- (2) A notice of pricing investigation for the purposes of regulation 30 or 32 is to specify –

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- (a) the objective of the investigation; and
 - (b) the period within which, and the form in which, submissions may be made to the Regulator; and
 - (c) the matters that the Regulator would like submissions to address; and
 - (d) the date by which the Regulator is to complete the pricing investigation by providing a final report in relation to the investigation.
- (3) Before conducting a pricing investigation, the Regulator is to ensure that a copy of the notice of pricing investigation in relation to the investigation is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a reasonable time.
 - (4) The Regulator may amend a notice of pricing investigation by notice in writing, setting out the amendment, given to the Minister and the electricity entity, or authorised retailer, providing the declared electrical service to which the investigation relates.
 - (5) The Regulator may not amend under subregulation (4) the objective specified, in accordance with subregulation (2)(a), in a notice of pricing investigation.
 - (6) If the Regulator amends under subregulation (4) a notice of pricing investigation, the Regulator is to –

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- (a) give notice of the amendment in such daily newspapers, or in such other manner, as the Regulator considers appropriate; and
- (b) ensure that a copy of the notice given under subregulation (4) is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a reasonable time.

34. Contents of final report

The final report in relation to a pricing investigation in respect of a declared electrical service is to set out –

- (a) a summary of the information obtained by the Regulator during the investigation; and
- (b) whether the Regulator is of the opinion that the Regulator ought to determine under section 40AD(5) of the Act maximum prices in respect of the declared electrical service; and
- (c) if the report concludes that the Regulator ought to determine under section 40AD(5) of the Act maximum prices in respect of the declared electrical service – the determination that the Regulator intends to make.

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35. Cost of declaration, investigations and determinations

- (1) In this regulation, each of the following is a relevant activity of the Regulator in respect of a declared electrical service provided by an electricity entity or authorised retailer:
- (a) the making, amendment or revocation of a declaration under section 40AD of the Act of a declared electrical service that is provided by the electricity entity or authorised retailer;
 - (b) the conduct and reporting of a pricing investigation in relation to a declared electrical service provided by the electricity entity or authorised retailer, and the giving, or publication, of any notice required under these regulations to be given in relation to such an investigation or report;
 - (c) the making, amending or revocation under section 40AD of the Act of a declared electrical service price determination in relation to a declared electrical service that is provided by the electricity entity or authorised retailer and the publishing under these regulations of a copy of the determination, amendment or revocation.

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- (2) The Regulator may send a notice of expenses to an electricity entity or authorised retailer in relation to a relevant activity of the Regulator.
- (3) A notice of expenses to an electricity entity or authorised retailer in relation to a relevant activity of the Regulator is a notice specifying –
 - (a) the amount of the expenses determined by the Regulator to be payable by the electricity entity or authorised retailer in respect of all or part of the expenses, reasonably incurred by the Regulator, arising from a relevant activity of the Regulator in respect of a declared electrical service provided by the electricity entity or authorised retailer; and
 - (b) the date on or before which the expenses are to be paid by the electricity entity or authorised retailer.
- (4) A date specified in a notice to an electricity entity or authorised retailer in accordance with subregulation (3)(b) is not to be earlier than 30 days after the notice is sent to the electricity entity or authorised retailer.
- (5) An electricity entity or authorised retailer to which an expenses notice is sent is liable to pay, to the Regulator, on or before the date specified in the notice as the date by which the amount is to be paid, the amount of the expenses specified in the notice.

- (6) The Regulator may recover in a court of competent jurisdiction, as a debt due and owing, an amount that an electricity entity or authorised retailer is liable to pay under subregulation (5).

Division 3 – Price determinations in respect of declared electrical services

Subdivision 1 – Making of price determinations

36. Declared electrical service price determinations

- (1) After completing the final report in respect of a pricing investigation in relation to a declared electrical service, the Regulator is to make under section 40AD(5) of the Act a determination (a *declared electrical service price determination*) in relation to the declared electrical service.
- (2) A declared electrical service price determination may be expressed in one or more of the following terms or manners:
- (a) maximum prices or the maximum rate of increase or the minimum rate of decrease in maximum prices;
 - (b) average prices or average rates of increase or decrease in average prices;
 - (c) pricing policies or principles;
 - (d) by reference to a general price index, the cost of production, revenue, a rate of return on assets or any other factor;

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- (e) by reference to quantity, location or period of provision of the declared electrical service;
 - (f) by reference to a maximum revenue;
 - (g) any other terms that the Regulator considers appropriate.
- (3) A declared electrical service price determination that relates to a declared electrical service in relation to the Bass Strait Islands may consist of, or include, provisions regulating the conditions that may be included in a contract entered into, during the period specified in the determination in respect of the declared electrical service, by –
- (a) an electricity entity or authorised retailer; and
 - (b) a customer at premises in the Bass Strait Islands.
- (4) A declared electrical service price determination is to specify the date on which the determination is to take effect and the date on which it expires.
- (5) A date specified in a declared electrical service price determination as the date on which the determination is to take effect may not be a date that occurs before the determination is made.
- (6) A declared electrical service price determination –

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- (a) is to allow for an adjustment to the prices that may be charged by, and to the price control mechanisms imposed on, an electricity entity or authorised retailer under the determination as a result of a tax event or a material change in circumstances in relation to the provision of the declared electrical service; and
- (b) is to specify –
- (i) the method of calculating that adjustment; or
 - (ii) the principles to be applied in making the adjustment to the prices or to the price control mechanisms or in calculating the adjustment, and the general manner in which those principles are to be applied.
- (7) A declared electrical service price determination may establish a performance incentive scheme for an electricity entity or authorised retailer to which the determination relates.
- (8) If a declared electrical service price determination establishes a performance incentive scheme for an electricity entity or authorised retailer, the determination is to specify –
- (a) the method of calculating the adjustment to the prices that may be charged by, and to the price control mechanisms imposed

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- on, the electricity entity or authorised retailer under the determination as a result of that scheme; or
- (b) the principles to be applied in making the adjustment to the prices or to the price control mechanisms or in calculating the adjustment, and the general manner in which those principles are to be applied.
- (9) In specifying in a declared electrical service price determination –
- (a) the method of calculating an adjustment referred to in subregulation (6) or (8); or
- (b) the principles to be applied in making the adjustment to the prices or to the price control mechanisms or in calculating the adjustment, and the general manner in which those principles are to be applied –
- the Regulator is to ensure that the adjustment reflects the full financial effect on the electricity entity or authorised retailer of the tax event, material change in circumstances or scheme.
- (10) A declared electrical service price determination may have a differential application that varies according to factors stated in the determination.

37. Matters to be considered

In making a declared electrical service price determination in relation to a declared electrical

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service, the Regulator is to consider the following matters:

- (a) the cost of providing the declared electrical service;
- (b) any interstate or international benchmarks for prices, costs, revenues and return on assets in bodies providing a service similar to the declared electrical service;
- (c) the principle that consumers of the declared electrical service should be protected from the adverse effects of the exercise of substantial market power by an electricity entity or authorised retailer in relation to prices, pricing policies and standards of service in respect of the provision of the declared electrical service;
- (d) the degree of competition in the electricity supply industry that is relevant to the provision of the declared electrical service;
- (e) the principle that there is a need for a reasonable return (including the payment of dividends) on the assets of an electricity entity or authorised retailer;
- (f) the principle that there is a need for efficiency in the provision of the declared electrical service for the purpose of benefiting the public interest through a

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- reduction in the cost of providing the declared electrical service;
- (g) the effects of inflation;
 - (h) the principle that there is a need for the electricity entity or authorised retailer to be financially viable;
 - (i) the impact on pricing policies of any borrowing, capital, dividend and taxation or tax-equivalent obligations of the electricity entity or authorised retailer, including obligations to renew or increase assets;
 - (j) the quality of the provision of the declared electrical service;
 - (k) any ministerial charter, licence or obligation under the Act, any retailer authorisation, any regulations made under the Act, the National Energy Retail Law (Tasmania), the National Energy Retail Regulations (Tasmania), the *National Energy Retail Law (Tasmania) Act 2012* and any regulations made under that Act, that apply, or are likely to apply, to the electricity entity or authorised retailer;
 - (l) the Code;
 - (m) the National Electricity Rules;

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- (n) any costs (including capital expenditure) incurred by the electricity entity or authorised retailer at the direction of the Regulator;
- (o) the public interest;
- (p) any other matter that the Regulator considers relevant.

38. Notice to be given of making of declared electrical service price determination

- (1) As soon as practicable after making a declared electrical service price determination, the Regulator must –
 - (a) give a copy of the determination to –
 - (i) the Minister; and
 - (ii) the electricity entity or authorised retailer to which the determination relates; and
 - (b) publish, in such daily newspapers, or in such other manner, as the Regulator considers appropriate, notice that the determination has been made and that a copy of the determination –
 - (i) may be obtained at a place specified in the notice; and

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- (ii) may be viewed and downloaded at a website specified in the notice.
- (2) As soon as practicable after making a declared electrical service price determination, the Regulator is to ensure that a copy of the determination is available –
 - (a) for viewing and downloading at a website specified by the Regulator; and
 - (b) in paper form; and
 - (c) in any other form that the Regulator considers appropriate.

39. When declared electrical service price determination takes effect and ends

- (1) A declared electrical service price determination (the *new determination*) in relation to a declared electrical service takes effect –
 - (a) if at the time at which the new determination is made there is in force no other such determination in relation to the declared electrical service – on the date specified in the new determination as the date on which the determination is to take effect; or
 - (b) if at the time at which the new determination is made there is in force another such determination, in relation to

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the declared electrical service, that has not yet reached its expiry date – on the expiry or revocation of the other determination; or

- (c) if at the time at which the new determination is made there is in force, by reason of subregulation (4), another such determination in relation to the declared electrical service – on the date specified in the new determination as the date on which the determination is to take effect.
- (2) A declared electrical service price determination ceases to have effect –
- (a) if each declaration, of a declared electrical service in respect of all declared electrical services to which the determination applies, has been revoked – on the date on which the last of those revocations takes effect; or
 - (b) if the determination is revoked – on the date on which that revocation takes effect; or
 - (c) if the determination, by reason of subregulation (4), is continued after the date on which it would normally expire – on the date on which another declared electrical service price determination in respect of the declared electrical service

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- to which the determination applies takes effect; or
- (d) in any other case – on the date specified in the determination as the date on which it expires.
- (3) If –
- (a) a declared electrical service price determination relates to more than one declared electrical service; and
- (b) a declaration of a declared electrical service in respect of any of those electrical services is revoked –
- the declared electrical service price determination ceases to have effect in relation to the goods, or service, in respect of which that declaration of a declared electrical service was made.
- (4) If, on the date on which a declared electrical service price determination is due to expire, a pricing investigation is being conducted in respect of a declared electrical service to which that determination relates, that determination –
- (a) continues to have effect in respect of that declared electrical service; but
- (b) ceases to have effect in respect of any other declared electrical service to which it relates.

40. Adjustment to prices in determination

(1) In this regulation –

adjustment means an adjustment to the prices that an electricity entity or authorised retailer may charge, or to the price control mechanisms imposed on the electricity entity or authorised retailer, (or both), under a declared electrical service price determination –

- (a) as a result of the occurrence of a tax event; or
 - (b) as a result of a material change in costs to the electricity entity or authorised retailer of providing the declared electrical service to which the determination relates; or
 - (c) under a performance incentive scheme.
- (2) The Regulator, by notice to an electricity entity or authorised retailer, may specify that an adjustment, specified in the notice, is approved and takes effect on the date specified in the notice as the date on which the adjustment is to take effect.
- (3) An adjustment takes effect on the date specified in a notice under subregulation (2) as the date on which the adjustment is to take effect.

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- (4) The Regulator is to notify an electricity entity or authorised retailer if, when considering whether to approve an adjustment, the Regulator determines that –
- (a) a tax event, or a material change in costs to the electricity entity or the authorised retailer of providing the declared electrical service to which the determination relates, has not occurred; or
 - (b) a standard of performance required for an adjustment has not been reached.
- (5) The Regulator is not to approve an adjustment unless the Regulator is satisfied that the adjustment has been calculated in accordance with –
- (a) the method of calculating that adjustment; or
 - (b) the principles to be applied in making the adjustment to the prices or to the price control mechanisms or in calculating the adjustment, and the general manner in which those principles are to be applied –
- specified in the declared electrical service price determination to which the adjustment relates.
- (6) On approving or refusing to approve an adjustment, the Regulator is to notify the electricity entity or authorised retailer to which the adjustment relates.

***Subdivision 2 – Amendment or revocation of declared
electrical service price determination***

**41. Amendment or revocation of declared electrical
service price determination**

- (1) The Regulator may amend or revoke under section 40AD(7) of the Act a determination made under section 40AD(5) of the Act if, in the opinion of the Regulator, an electricity entity or authorised retailer to which the determination relates is materially adversely affected as a result of the making of an amendment or revocation of a transmission determination or a distribution determination.
- (2) The Regulator may amend or revoke under section 40AD(7) of the Act a determination made under section 40AD(5) of the Act if the Regulator is of the opinion –
 - (a) that the determination was made on the basis of information that was false or misleading in a material particular; or
 - (b) that there is a material error in the determination; or
 - (c) that –
 - (i) the electricity entity or authorised retailer to which the determination relates is affected materially and adversely by the determination as a result of an

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event which is beyond the entity's or retailer's reasonable control and was not taken into account in the terms of the determination; and

- (ii) the benefits of amending or revoking the determination would outweigh any detriment to the electricity supply industry that might result from the amendment or revocation of the determination.
- (3) Subregulations (1) and (2) do not limit the circumstances in which the Regulator may amend or revoke under section 40AD(7) of the Act a determination made under section 40AD(5) of the Act.
- (4) An amendment or revocation under section 40AD(7) of the Act of a declared electrical service price determination takes effect on the date specified in the amendment or revocation.
- (5) Regulation 38 applies in relation to an amendment or revocation under section 40AD(7) of the Act of a declared electrical service price determination as if the amendment or revocation were a declared electrical service price determination.

42. Process for making of amendment or revocation

- (1) Before amending or revoking under section 40AD(7) of the Act a declared electrical service price determination, the Regulator is to invite submissions in respect of whether the determination ought to be amended or revoked.
- (2) The invitation referred to in subregulation (1) is to –
 - (a) be in writing; and
 - (b) specify a reasonable period within which the submissions may be made.
- (3) The Regulator is to –
 - (a) give a copy of the invitation to –
 - (i) the Minister; and
 - (ii) the electricity entity or authorised retailer providing the declared electrical service to which the declared electrical service price determination relates; and
 - (b) publish a copy of the invitation in such daily newspapers, or in such other manner, as the Regulator considers appropriate.
- (4) The Regulator is only to amend or revoke under section 40AD(7) of the Act a declared electrical service price determination –

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- (a) after the expiry of the period within which submissions may, under the invitation referred to in subregulation (1), be made in relation to the determination; and
 - (b) after considering any such submissions received.
- (5) Subject to these regulations, for the purpose of determining whether or not to amend or revoke a declared electrical service price determination, the Regulator may do any or all of the following:
 - (a) consult with any person;
 - (b) hold seminars;
 - (c) hold hearings;
 - (d) do anything that the Regulator considers necessary or convenient.
- (6) In determining whether or not to amend or revoke under section 40AD(7) of the Act a declared electrical service price determination, the Regulator is not bound by the rules of evidence but may inform itself of any matter in any manner that the Regulator considers appropriate.
- (7) If the Regulator decides to hold a hearing for the purpose of determining whether or not to amend or revoke under section 40AD(7) of the Act a declared electrical service price determination,

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regulation 58 applies as if the hearing were a hearing in respect of a pricing investigation.

- (8) Regulations 58 and 59 apply, in relation to the determining by the Regulator of whether or not to amend or revoke under section 40AD(7) of the Act a declared electrical service price determination, as if the Regulator were conducting a pricing investigation.

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Division 1 – Pricing investigations

43. Saving of determination under section 44G of the Act

A determination under section 44G(1) of the Act that was made by the Regulator and is in force immediately before the day on which these regulations commence, remains in force until 30 June 2025.

44. Pricing investigation to be conducted before expiry of feed-in tariff rate determination

- (1) At a reasonable time before the expiry of a feed-in tariff rate determination, the Regulator is to conduct a pricing investigation for the purposes of this regulation.
- (2) The objective of a pricing investigation for the purposes of this regulation is to provide information to the Regulator to enable the Regulator to make a determination under section 44G(1) of the Act.

45. Notice of investigation to be given

- (1) Before conducting a pricing investigation for the purposes of regulation 44, the Regulator –

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- (a) is to give to the Minister notice in writing of the investigation (***notice of pricing investigation***); and
- (b) is to publish a copy of the notice in such daily newspapers, or in such other manner, as the Regulator considers appropriate.
- (2) A notice of pricing investigation for the purposes of regulation 44 is to specify –
- (a) the objective of the investigation; and
- (b) the period within which, and the form in which, submissions may be made to the Regulator; and
- (c) the matters that the Regulator would like submissions to address; and
- (d) the date by which the Regulator is to complete the pricing investigation by providing a final report in relation to the investigation.
- (3) Before conducting a pricing investigation for the purposes of regulation 44, the Regulator is to ensure that a copy of the notice of pricing investigation in relation to the investigation is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a reasonable time.

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- (4) The Regulator may amend a notice of pricing investigation by notice in writing, setting out the amendment, given to the Minister.
- (5) The Regulator may not amend under subregulation (4) the objective specified, in accordance with subregulation (2)(a), in a notice of pricing investigation.
- (6) If the Regulator amends under subregulation (4) a notice of pricing investigation, the Regulator is to –
 - (a) give notice of the amendment in such daily newspapers, or in such other manner, as the Regulator considers appropriate; and
 - (b) ensure that a copy of the notice given under subregulation (4) is available, for viewing and downloading by a member of the public, at a website of the Regulator, for a period of not less than 6 months.

46. Contents of final report

The final report in relation to a pricing investigation for the purposes of regulation 44 is to set out –

- (a) a summary of the information obtained by the Regulator during the investigation; and

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- (b) a statement as to the determination that the Regulator intends to make under section 44G(1) of the Act.

Division 2 – Feed-in tariff rate determinations

47. Feed-in tariff rate determinations

- (1) After completing the final report in relation to a pricing investigation for the purposes of regulation 44, the Regulator is to make under section 44G(1) of the Act a determination (a *feed-in tariff rate determination*).
- (2) If a feed-in tariff rate determination specifies a method for determining a rate in relation to a kilowatt hour, the determination may authorise the Regulator to determine, from time to time, the rate, for a period specified in the feed-in tariff rate determination, calculated in accordance with the method.
- (3) A feed-in tariff rate determination is to specify the date on which the determination is to take effect and the date on which it expires.
- (4) A date specified in a feed-in tariff rate determination as the date on which the determination is to take effect may not be a date that occurs before the determination is made.

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48. Notice of making of feed-in tariff rate determination

- (1) As soon as practicable after making a feed-in tariff rate determination, the Regulator must –
 - (a) give a copy of the determination to –
 - (i) the Minister; and
 - (ii) each distributor; and
 - (b) publish, in such daily newspapers, or in such other manner, as the Regulator considers appropriate, notice that the determination has been made and that a copy of the determination –
 - (i) may be obtained at a place specified in the notice; and
 - (ii) may be viewed and downloaded at a website specified in the notice.
- (2) As soon as practicable after making a feed-in tariff rate determination, the Regulator is to ensure that a copy of the determination is available –
 - (a) for viewing and downloading at a website specified by the Regulator; and
 - (b) in paper form; and
 - (c) in any other form that the Regulator considers appropriate.

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- (3) A distributor to which a notice is given under subregulation (1) is to take all reasonable steps to notify each authorised retailer that supplies electricity on mainland Tasmania of the contents of the notice.

49. When feed-in tariff rate determination takes effect and ends

- (1) A feed-in tariff rate determination (the *new determination*) takes effect –
- (a) if at the time at which the new determination is made there is in force no other such determination – on the date specified in the new determination as the date on which the determination is to take effect; or
 - (b) if at the time at which the new determination is made there is in force another such determination that has not yet reached its expiry date – on the expiry or revocation of the other determination; or
 - (c) if at the time at which the new determination is made there is in force, by reason of subregulation (3), another such determination – on the date specified in the new determination as the date on which the determination is to take effect.

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- (2) A feed-in tariff rate determination ceases to have effect –
 - (a) if the determination is revoked – on the date on which that revocation takes effect; or
 - (b) in any other case – on the date specified in the determination as the date on which it expires.
- (3) If, on the date on which a feed-in tariff rate determination is due to expire, a pricing investigation is being conducted for the purposes of regulation 44, that determination continues to have effect until a subsequent determination takes effect.

50. Determination of rates under feed-in tariff rate determinations

- (1) If –
 - (a) a feed-in tariff rate determination specifies a method for determining a rate in relation to a kilowatt hour; and
 - (b) the feed-in tariff rate determination authorises the Regulator to determine, from time to time, the rate, for a period specified in the feed-in tariff rate determination, calculated in accordance with the method; and

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- (c) the Regulator determines the rate accordingly –

the determination of the rate has effect for the period specified in the determination of the rate as the period for which the determination of the rate is to have effect.

- (2) Regulation 48 applies in relation to a determination of a rate referred to in subregulation (1) as if the determination of the rate were a feed-in tariff rate determination.

51. Amendment or revocation of feed-in tariff rate determinations

- (1) The Regulator may amend or revoke under section 44G(4) of the Act a feed-in tariff rate determination if the Regulator is of the opinion –
- (a) that the determination was made on the basis of information that was false or misleading in a material particular; or
- (b) that there is a material error in the determination; or
- (c) that –
- (i) an electricity entity or authorised retailer is materially adversely affected by the determination as a result of an event which is beyond the entity's or retailer's reasonable control and which was

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not taken into account in the terms of the determination; and

- (ii) the benefits of amending or revoking the determination would outweigh any detriment to the electricity supply industry that might result from the amendment or revocation of the determination.
- (2) An amendment or revocation under section 44G(4) of the Act of a feed-in tariff rate determination takes effect on the date specified in the amendment or revocation.
- (3) Regulation 48 applies in relation to an amendment or revocation under section 44G(4) of the Act of a feed-in tariff rate determination as if the amendment or revocation were a feed-in tariff rate determination.
- (4) A distributor is to take all reasonable steps to notify each authorised retailer that retails electricity on mainland Tasmania of the making of an amendment or revocation under section 44G(4) of the Act.

52. Process for amendment or revocation

- (1) Before amending or revoking under section 44G(4) of the Act a feed-in tariff rate determination, the Regulator is to invite submissions in respect of whether the determination ought to be amended or revoked.

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- (2) The invitation referred to in subregulation (1) is to –
- (a) be in writing; and
 - (b) specify a reasonable period within which the submissions may be made.
- (3) The Regulator is to –
- (a) give a copy of the invitation to –
 - (i) the Minister; and
 - (ii) each distributor; and
 - (b) publish a copy of the invitation in such daily newspapers, or in such other manner, as the Regulator considers appropriate.
- (4) A distributor who has been given a copy of an invitation under subregulation (3) is to take all reasonable steps to give notice of the invitation to each authorised retailer that retails electricity on mainland Tasmania.
- (5) The Regulator may only amend or revoke under section 44G(4) of the Act a feed-in tariff rate determination –
- (a) after the expiry of the period within which submissions may, under the invitation referred to in subregulation (1), be made in relation to the determination; and

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- (b) after considering any such submissions received.
- (6) Subject to these regulations, for the purpose of determining whether or not to amend or revoke a feed-in tariff rate determination, the Regulator may do any or all of the following:
 - (a) consult with any person;
 - (b) hold seminars;
 - (c) hold hearings;
 - (d) do anything that the Regulator considers necessary or convenient.
- (7) In determining whether or not to amend or revoke under section 44G(4) of the Act a feed-in tariff rate determination, the Regulator is not bound by the rules of evidence but may inform itself of any matter in any manner that the Regulator considers appropriate.
- (8) If the Regulator decides to hold a hearing for the purpose of determining whether or not to amend or revoke under section 44G(4) of the Act a feed-in tariff rate determination, regulation 58 applies as if the hearing were a hearing in respect of a pricing investigation.
- (9) Regulations 59 and 60 apply, in relation to the determining by the Regulator of whether or not to amend or revoke under section 44G(4) of the Act a feed-in tariff rate determination, as if the

Regulator were conducting a pricing investigation.

53. Costs of investigations and determinations

- (1) In this regulation, each of the following is a relevant activity of the Regulator:
 - (a) the conduct and reporting of a pricing investigation for the purposes of regulation 44 and the giving, or publishing, of any notice required under these regulations to be given in relation to such an investigation or a report;
 - (b) the making under section 44G(1) of the Act, and the publishing under these regulations of a copy, of a feed-in tariff rate determination other than the initial feed-in tariff rate determination;
 - (c) the giving, or publishing, of any notice required under these regulations to be given in relation to the making of a feed-in tariff rate determination other than the initial feed-in tariff rate determination;
 - (d) the amendment or revocation under section 44G(4) of the Act of a feed-in tariff rate determination and the publishing under these regulations of a copy of the amendment or revocation;
 - (e) the giving, or publishing, of any notice required under these regulations to be

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- given in relation to the amendment or revocation under section 44G(4) of the Act of a feed-in tariff rate determination;
- (f) the determining of a rate, in accordance with regulation 50, under a feed-in tariff rate determination and the giving, or publishing, of any notice required under these regulations to be given in relation to the determining of the rate.
- (2) The Regulator may –
- (a) determine the total expenses, reasonably incurred by the Regulator, arising from a relevant activity of the Regulator; and
- (b) determine the amount of the total expenses determined under paragraph (a) that is to be payable by authorised retailers that retail electricity on mainland Tasmania; and
- (c) determine for the purposes of a notice under subregulation (4) the proportion of the amount determined under paragraph (b) that is to be payable by an authorised retailer to which the notice is to relate.
- (3) The Regulator is to determine a proportion under subregulation (2)(c) by allocating the amount determined under subregulation (2)(b), in the proportion that the Regulator thinks fair and reasonable, between all authorised retailers that retail electricity on mainland Tasmania.

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- (4) The Regulator may send to an authorised retailer that retails electricity on mainland Tasmania a notice of expenses in relation to a relevant activity of the Regulator.
 - (5) A notice of expenses to an authorised retailer in relation to a relevant activity of the Regulator is a notice specifying –
 - (a) the amount, determined under subregulation (2)(c) in relation to the authorised retailer, that is to be payable by the authorised retailer; and
 - (b) the date on or before which the amount is to be paid by the authorised retailer.
 - (6) A date specified in a notice to an authorised retailer in accordance with subregulation (5)(b) is not to be earlier than 30 days after the notice is sent to the authorised retailer.
 - (7) An authorised retailer to which a notice of expenses is sent is liable to pay, to the Regulator, on or before the date specified in the notice as the date by which the amount is to be paid, the amount specified in the notice.
 - (8) The Regulator may recover in a court of competent jurisdiction, as a debt due and owing, an amount that an authorised retailer is liable to pay under subregulation (7).

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Division 3 – Miscellaneous

54. Manner in which billing amount to be paid

- (1) For the purposes of section 44E(5) of the Act, the manner of paying feed-in tariff billing amounts is the manner set out in this regulation.
- (2) Subject to subregulation (3), a feed-in tariff billing amount in respect of premises is to be paid to a feed-in tariff customer in respect of the premises by crediting the amount to the customer's electricity account for the billing period in respect of the feed-in tariff billing amount.
- (3) If the feed-in tariff billing amount, in respect of a billing period, that the authorised retailer is required to pay to the customer is more than the amount for which the customer is to be charged for the supply of electricity to the premises during that billing period, the authorised retailer is to pay the feed-in tariff billing amount in accordance with the relevant choice as to payment made by the customer by notice to the authorised retailer.
- (4) For the purposes of subregulation (3), the relevant choices as to payment of a feed-in tariff billing amount, in respect of a billing period, in relation to premises are –
 - (a) the choice to have the amount credited to an electricity account of the customer for

a subsequent billing period in relation to the premises; or

- (b) the choice to receive the amount, within the period of 30 days after the electricity account in respect of the billing period is sent to the customer, by cash, cheque, bank deposit or electronic transfer of funds, whichever may be selected by the customer.

55. Reporting and recording by distributors

- (1) For the purposes of section 44J(1) of the Act, a distributor in respect of premises must keep an accurate record of all small customers in respect of the premises –
 - (a) who are, or who have ceased to be, standard feed-in tariff customers, in respect of the premises; or
 - (b) who have –
 - (i) ceased to be standard feed-in tariff customers, in respect of the premises, in relation to one authorised retailer; and
 - (ii) become standard feed-in tariff customers, in respect of the premises, of another authorised retailer.

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- (2) For the purposes of section 44J(2) of the Act, the period is the period between 1 July and 30 September in each year.
- (3) For the purposes of section 44J(2) of the Act, the report to be provided within the period specified in subregulation (2) is to contain the following matters:
 - (a) the number of small customers in respect of premises at which there are installed qualifying systems that became, in the previous financial year, connected by the distributor to the distributor's distribution network;
 - (b) the number of small customers in respect of premises at which there are installed qualifying systems that were, as at the end of the previous financial year, connected by the distributor to the distributor's distribution network (whether or not the system became connected in that previous financial year or an earlier financial year);
 - (c) the total generating capacity of, and amount of electricity supplied to the distribution network by, all qualifying systems, at premises of small customers, that were, as at the end of the previous financial year, connected by the distributor to the distributor's distribution network (whether or not the systems became connected in that previous

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- financial year or in an earlier financial year);
- (d) the number of standard feed-in tariff customers, in respect of premises at which, as at the end of the previous financial year, qualifying systems had been connected by the distributor to the distributor's distribution network (whether or not the systems became connected in that previous financial year or an earlier financial year);
 - (e) the amounts paid, under section 44I of the Act, before the end of the previous financial year, by the distributor to each authorised retailer, the amounts for each authorised retailer being listed separately.
- (4) The Regulator must publish, for a period of not less than 6 months, on a website of the Regulator, a copy of a report provided to the Regulator by a distributor in accordance with section 44J(2) of the Act.

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56. Application of Part

This Part applies if an investigation is, in accordance with these regulations, to be conducted.

57. Conduct of investigations

- (1) For the purposes of conducting an investigation, but subject to these regulations, the Regulator may do anything that the Regulator considers necessary or convenient.
- (2) In conducting an investigation, the Regulator is only to receive submissions if they are in the form specified in the notice of pricing investigation, or notice of compliance investigation, in relation to the investigation.
- (3) Subject to these regulations, the Regulator may conduct an investigation in the manner that the Regulator considers appropriate and, in particular, may –
 - (a) consult with any person; or
 - (b) hold seminars; or
 - (c) hold hearings; or
 - (d) determine whether any person wishing to appear before the Regulator may be represented by another person.

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- (4) In conducting an investigation, the Regulator is not bound by rules of evidence but may inform itself of any matter in any manner that the Regulator considers appropriate.

58. Hearings

- (1) If, in conducting an investigation, the Regulator decides to hold a hearing, the Regulator is to give reasonable notice of the hearing in the daily newspapers that the Regulator considers appropriate.
- (2) The notice of a hearing is to specify –
- (a) the purpose of the hearing; and
 - (b) the time and place at which the hearing is to be held.
- (3) A hearing, or part of a hearing, may be conducted by telephone, video-link or other means.
- (4) A hearing is to be held in public.
- (5) Despite subregulation (4), if the Regulator is satisfied that it would be in the public interest to do so or that evidence to be presented is, or is likely to be, of a confidential or commercially sensitive nature, the Regulator is to –
- (a) direct that a hearing or part of a hearing is to take place in private and give directions as to the persons who may be present; and

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- (b) give directions prohibiting or restricting the publication of evidence given, or documents produced, at the hearing.
- (6) A person must not contravene a direction given under subregulation (5).

Penalty: Fine not exceeding 100 penalty units.

- (7) The following information is taken to be classified by the Regulator as confidential and is not liable to disclosure under the *Right to Information Act 2009*:
- (a) evidence and documents in respect of which a direction under subregulation (5)(b) has been made;
 - (b) records of the giving or production of such evidence and documents.

59. Person may be required to give evidence or provide document

- (1) For the purposes of an investigation, the Regulator, by written notice given to a person, may require the person to do any one or more of the following:
- (a) attend before the Regulator and answer questions which, in the opinion of the Regulator, are relevant to the investigation;
 - (b) provide to the Regulator, in the manner specified in the notice, any document

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- specified in the notice which is in the person's possession or control and which, in the opinion of the Regulator, is relevant to the investigation;
- (c) provide to the Regulator, in the manner specified in the notice, a document prepared as specified in the notice that contains information which is specified in the notice and which, in the opinion of the Regulator, is relevant to the investigation;
- (d) provide to the Regulator, in the manner specified in the notice, any other information specified in the notice which, in the opinion of the Regulator, is relevant to the investigation.
- (2) A person must not fail to comply with a requirement imposed on the person under subregulation (1).
- Penalty: Fine not exceeding 100 penalty units.
- (3) Despite subregulation (2), a natural person is not required to comply with a requirement imposed on the person under subregulation (1) if to do so would tend to incriminate him or her.
- (4) A person who attends before the Regulator in accordance with a requirement, referred to in subregulation (1)(a), that is imposed on the person may, at the Regulator's discretion, be paid by the Regulator reasonable allowances and expenses as determined by the Regulator.

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- (5) If a requirement referred to in subregulation (1)(a) is imposed on a person under subregulation (1), the Regulator may determine whether the person may be represented by another person.
- (6) Despite subregulation (1), the Regulator may not require a person –
 - (a) to answer a question, or provide a document or information, if to do so would require the person to divulge information contained in or relating to a Cabinet record; or
 - (b) to provide to the Regulator a Cabinet record.

60. Use of documents and other information

- (1) The Regulator –
 - (a) may examine, take possession of, make copies of and take extracts from any document provided under a requirement referred to in regulation 59(1)(b) or (c); and
 - (b) may retain that document for so long as is necessary for the purposes of the investigation in relation to which the requirement was imposed; and
 - (c) is to allow a person who would be entitled to inspect the document, if it

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were not in the possession of the Regulator, to inspect it, make a copy of it or take an extract from it at any reasonable time.

- (2) The Regulator may give directions prohibiting or restricting the publication of –
- (a) any answer, document or other information provided to the Regulator under a requirement referred to in regulation 59(1); and
 - (b) a part of any such answer, document or other information; and
 - (c) a copy of, or extract from, any such answer, document, other information or part.
- (3) A person must not contravene a direction given under subregulation (2).

Penalty: Fine not exceeding 150 penalty units.

- (4) The following information is taken to be classified by the Regulator as confidential and is not liable to disclosure under the *Right to Information Act 2009*:
- (a) any answer, document, other information or part of any answer, document or other information in respect of which a direction under subregulation (2) has been given;

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- (b) records relating to the production of any such answer, document, other information or part.
- (5) The Regulator may publish to any person as the Regulator considers appropriate any answer, document or other information provided under a requirement referred to in regulation 59(1), or part of any such answer, document or other information, except if –
 - (a) a direction in respect of the answer, document, other information or part has been given under subregulation (2) and its publication to that person would contravene the direction; or
 - (b) the answer, document, other information or part contains information which is exempt information under the *Right to Information Act 2009*; or
 - (c) the answer, document, other information or part is something, or something that contains information, which, in the opinion of the Regulator, could cause damage to the commercial interests of a person and the Regulator determines that such damage or the possibility of such damage outweighs the public benefit that would arise from its publication.

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61. Draft report

- (1) At an appropriate time during an investigation, the Regulator is to prepare a draft report in respect of the investigation.
- (2) As soon as practicable after preparing the draft report, the Regulator is to –
 - (a) give a copy of the draft report, together with the relevant notice, to the Minister; and
 - (b) give a copy of the draft report to –
 - (i) if the investigation is a pricing investigation for the purposes of regulation 5 – the regulated offer retailer to which the pricing investigation relates; or
 - (ii) if the investigation is a pricing investigation for the purposes of regulation 17 – the Hydro-Electric Corporation and such authorised retailers, if any, as the Regulator considers ought to be given a copy of the draft report; or
 - (iii) if the investigation is a compliance investigation for the purposes of regulation 22 – the Hydro-Electric Corporation and each authorised retailer that retails electricity in the State; or

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- (iv) if the investigation is a pricing investigation for the purposes of regulation 30 or 32 – the electricity entity or authorised retailer providing the declared electrical service to which the investigation relates; or
 - (v) if the investigation is a pricing investigation for the purposes of regulation 44 – each distributor and authorised retailer that retails electricity in the State; and
 - (c) ensure that a copy of the draft report, together with the relevant notice, is available –
 - (i) for viewing and downloading at a website specified by the Regulator; and
 - (ii) in paper form; and
 - (iii) in any other form that the Regulator considers appropriate; and
 - (d) make a copy of the draft report together with the relevant notice available for viewing and downloading by members of the public, on a website of the Regulator, for a period of not less than 6 months.
- (3) In this regulation, the relevant notice is a notice inviting the making of submissions to the

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Regulator in respect of the draft report before the date specified in the notice as the date before which submissions may be made.

- (4) A person may make a submission to the Regulator in respect of the draft report by the date specified in the relevant notice in relation to the draft report as the date before which submissions in relation to the draft report may be made.
- (5) A distributor who has been given a copy of a draft report under subregulation (2)(b)(v) is to take all reasonable steps to notify each authorised retailer that retails electricity on mainland Tasmania that a copy of the draft report may be viewed on a website of the Regulator.

62. Final report

- (1) After considering any submission made under regulation 61(4) in relation to an investigation, the Regulator is to –
 - (a) prepare a final report in respect of the investigation; and
 - (b) give a copy of the final report to the Minister; and
 - (c) give a copy of the final report to –
 - (i) if the investigation is a pricing investigation for the purposes of

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- regulation 5 – the regulated offer retailer to which the pricing investigation relates; or
- (ii) if the investigation is a pricing investigation for the purposes of regulation 17 – the Hydro-Electric Corporation and such authorised retailers, if any, as the Regulator considers ought to be given a copy of the final report; or
 - (iii) if the investigation is a compliance investigation for the purposes of regulation 22 – the Hydro-Electric Corporation and each authorised retailer that retails electricity in the State; or
 - (iv) if the investigation is a pricing investigation for the purposes of regulation 30 or 32 – the electricity entity or authorised retailer providing the declared electrical service to which the investigation relates; or
 - (v) if the investigation is a pricing investigation for the purposes of regulation 44 – each distributor and authorised retailer that retails electricity in the State; and

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- (d) publish, in such daily newspapers, or in such other manner, as the Regulator considers appropriate, notice that a copy of the report –
- (i) may be obtained at a place specified in the notice; and
 - (ii) may be viewed and downloaded at a website specified in the notice.
- (2) The final report in relation to an investigation that is a pricing investigation for the purposes of regulation 5 is to –
- (a) be given under subregulation (1) before the date specified, in accordance with regulation 6(2)(d), in the notice of pricing investigation in relation to the pricing investigation; and
 - (b) be consistent with the Act and any regulations under the Act; and
 - (c) report in relation to the matters specified in regulation 7 in respect of such investigations.
- (3) The final report in relation to an investigation that is a pricing investigation for the purposes of regulation 17 is to –
- (a) be given under subregulation (1) before the date specified, in accordance with regulation 18(2)(d), in the notice of

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- pricing investigation in relation to the pricing investigation; and
- (b) be consistent with the Act and any regulations under the Act; and
 - (c) report in relation to the matters specified in regulation 19.
- (4) The final report in relation to an investigation that is a compliance investigation for the purposes of regulation 22 is to –
- (a) be given under subregulation (1) before the date specified, in accordance with regulation 23(2)(d), in the notice of compliance investigation in relation to the investigation; and
 - (b) be consistent with the Act and any regulations under the Act; and
 - (c) report in relation to the matters specified in regulation 24.
- (5) The final report in relation to an investigation that is a pricing investigation for the purposes of regulation 30 or 32 is to –
- (a) be given under subregulation (1) before the date specified, in accordance with regulation 33(2)(d), in the notice of pricing investigation in relation to the pricing investigation; and

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- (b) be consistent with the Act and any regulations under the Act; and
 - (c) report in relation to the matters specified in regulation 34.
 - (6) The final report in relation to an investigation that is a pricing investigation for the purposes of regulation 44 is to –
 - (a) be given under subregulation (1) before the date specified, in accordance with regulation 45(2)(d), in the notice of pricing investigation in relation to the pricing investigation; and
 - (b) be consistent with the Act and any regulations under the Act; and
 - (c) report in relation to the matters specified in regulation 46.
 - (7) As soon as practicable after the final report is completed, the Regulator is to ensure that a copy of the final report is available –
 - (a) for viewing and downloading at a website specified by the Regulator; and
 - (b) in paper form; and
 - (c) in any other form that the Regulator considers appropriate.
 - (8) A distributor who has been given a copy of a final report under subregulation (1)(c)(v) is to take all reasonable steps to notify each

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authorised retailer that retails electricity on mainland Tasmania that a copy of the final report may be viewed on a website of the Regulator.

PART 7 – MISCELLANEOUS

63. Offences

A person must not take, or threaten to take, any action that detrimentally affects the employment of another person because that other person has assisted, is assisting or intends to assist the Regulator in respect of any matter under these regulations, including but not limited to a pricing investigation under these regulations.

Penalty: Fine not exceeding 100 penalty units.

64. Determinations as to whether to conduct price investigation not reviewable

For the purposes of the definition of *reviewable decision* in section 3 of the Act, a decision to conduct, or to refuse to conduct, a pricing investigation is declared not to be reviewable.

65. Determination of AER not reviewable

For the purposes of the definition of *reviewable decision* in section 3 of the Act, a direction, decision, or determination, made by the AER when performing or exercising functions or powers under the Act, these regulations or the Code that are conferred on it by section 16C of the Act is declared not to be reviewable.

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Part 7 – Miscellaneous

66. Notices, &c., may be given to authorised retailers

The Regulator may, if the Regulator thinks fit, provide to an authorised retailer a copy of any notice, invitation or other instrument that the Regulator is required under these regulations to give to another authorised retailer.

67. Service of documents

A document is effectively provided, served or given to a person under these regulations, if –

- (a) in the case of a natural person, it is –
 - (i) given to the person; or
 - (ii) left at, or sent by post to, the person’s postal or residential address or place or address of business employment last known to the server of the document; or
 - (iv) emailed to the person’s email address; or
- (b) in the case of any other person, it is –
 - (i) left at, or sent by post to, the person’s principal or registered office or principal place of business; or
 - (iii) emailed to the person’s email address.

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 17 May 2023.

These regulations are administered in the Department of Treasury and Finance.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations –

- (a) provide for the regulation of prices set by certain electricity entities and other providers of certain other electrical services, the approval of certain types of contracts, the terms and conditions of certain types of contracts, and the methods by which the prices contained in such contracts are to be fixed; and
- (b) are made consequentially on the repeal of the *Electricity Supply Industry (Pricing and Related Matters) Regulations 2013* under section 11 of the *Subordinate Legislation Act 1992*.