



**THE ELECTRICITY (INFORMATION DISCLOSURE)
REGULATIONS 1994, AMENDMENT NO. 1**

THOMAS EICHELBAUM, Administrator of the Government

ORDER IN COUNCIL

At Wellington this 11th day of March 1996

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL
PURSUANT to section 170 of the Electricity Act 1992, His Excellency the
Administrator of the Government, acting by and with the advice and
consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

- | | |
|---|--|
| <ol style="list-style-type: none">1. Title and commencement2. Interpretation3. Prescribed business relationships4. Financial statement disclosure by other line owners5. Contract disclosure by electricity generators6. Further provisions relating to contract disclosure by electricity generators7. Contract disclosure by line owners8. Further provisions relating to contract disclosure by line owners9. Contract disclosure by electricity retailers10. Further provisions relating to contract disclosure by electricity retailers | <ol style="list-style-type: none">11. Disclosure by line owners of financial and efficiency performance measures12. Disclosure of valuation reports13. Disclosure by line owners (other than Trans Power) of reliability performance measures14. Disclosure of pricing methodologies15. Disclosure of methodologies for allocation of costs, revenues, etc.16. Disclosure of information relating to transactions between persons in a prescribed business relationship17. Disclosure of information relating to load groups18. Disclosure of line charges19. Certificates |
|---|--|

20. Effect of mergers, takeovers, etc.
21. Retention of information
22. Statutory declarations

23. Amendments to First Schedule
24. Amendments to Second Schedule
Schedule

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Electricity (Information Disclosure) Regulations 1994, Amendment No. 1, and shall be read together with and deemed part of the Electricity (Information Disclosure) Regulations 1994* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of April 1996.

2. Interpretation—(1) Regulation 2 (1) of the principal regulations is hereby amended by revoking the definition of the term “financial statement”, and substituting the following definition:

“‘Financial statement’ means—

“(a) A profit and loss statement and balance sheet (including notes to that statement and balance sheet); and

“(b) A statement of accounting policies—
prepared in accordance with generally accepted accounting practice.”

(2) Regulation 2 (1) of the principal regulations is hereby amended by revoking the definition of the term “independent auditor”, and substituting the following definition:

“‘Independent auditor’, in relation to any information to which regulation 25 of these regulations applies, means a person who,—

“(a) Is qualified for appointment as auditor of a company under the Companies Act 1955 or the Companies Act 1993; and

“(b) Has no relationship with, or interest in, the person that is required, by any provision of these regulations, to publicly disclose—

“(i) That information; or

“(ii) In the case of a valuation to which subclause (1) (d) of regulation 25 of these regulations applies, information based on that valuation,—

being a relationship or interest that is likely to involve that first-mentioned person in a conflict of interest; and

“(c) In the case of a valuation to which subclause (1) (d) of regulation 25 of these regulations applies, was not involved in the preparation of that valuation.”

(3) Regulation 2 (1) of the principal regulations is hereby amended by revoking the definition of the term “prescribed terms and conditions”, and substituting the following definition:

“‘Prescribed terms and conditions’,—

“(a) In relation to a contract or arrangement for the supply of electricity or line function services, means—

“(i) Those terms and conditions of the contract or arrangement that describe the goods or services to be supplied pursuant to the contract or arrangement; and

“(ii) Those terms and conditions of the contract or arrangement that determine, or provide for the determination of, the quantity or amount of the goods or services to be supplied pursuant to the contract or arrangement; and

“(iii) Those terms and conditions of the contract or arrangement that specify, determine, or provide for the determination of,—

“(A) In relation to the supply of electricity, the price per unit or per time period:

“(B) In relation to the supply of line function services, the price at which those services are to be supplied:

“(C) In relation to the supply of any other goods or services, the price at which those goods or services are to be supplied:

“(D) The timing of payment for the goods or services to be supplied pursuant to the contract or arrangement:

“(E) Security for payment for the goods or services to be supplied pursuant to the contract or arrangement:

“(b) In relation to a contract for related services or an arrangement for related services, means—

“(i) Those terms and conditions of the contract or arrangement that describe the goods or services to be supplied pursuant to the contract or arrangement; and

“(ii) Those terms and conditions of the contract or arrangement that determine, or provide for the determination of, the quantity or amount of the goods or services to be supplied pursuant to the contract or arrangement; and

“(iii) Those terms and conditions of the contract or arrangement that specify, determine, or provide for the determination of,—

“(A) In relation to the goods or services to be supplied pursuant to the contract or arrangement, the price at which those goods or services are to be supplied:

“(B) The timing of payment for those goods or services:

“(C) Security for payment for those goods or services.”

(4) Regulation 2 (1) of the principal regulations is hereby amended by revoking the definition of the term “publicly disclose”, and substituting the following definition:

“‘Publicly disclose’, in relation to any information required by these regulations to be made available by any electricity generator, line owner, or electricity retailer, means to make that information available in the following ways:

“(a) By making copies of that information available for inspection, during ordinary office hours, at the principal offices of that electricity generator, line owner, or electricity retailer, as the case may be; and

“(b) At the request of any person, by providing the person with a copy of that information, either—

“(i) By post; or

“(ii) For collection, during ordinary office hours, from the principal offices of that electricity generator, line owner, or electricity retailer, as the case may be,—
whichever the person requesting the information prefers;—
and the term ‘public disclosure’ has a corresponding meaning.”.

3. Prescribed business relationships—(1) Regulation 3 (1) (b) of the principal regulations is hereby amended by omitting the words “shall be deemed to be in a prescribed business relationship with another person (being an electricity generator or an electricity retailer)”, and substituting the words “and another person (being an electricity generator or an electricity retailer) shall be deemed to be in a prescribed business relationship”.

(2) Regulation 3 of the principal regulations is hereby amended by adding the following subclause:

“(7) For the purposes of subclause (1) of this regulation, no person shall be deemed to be in a prescribed business relationship with another person by reason only that the Crown holds a controlling interest in each of those 2 persons.”

4. Financial statement disclosure by other line owners—

(1) Regulation 6 (3) (e) of the principal regulations is hereby amended by omitting the expression “paragraphs (b) to (d)”, and substituting the expression “paragraphs (a) to (d)”.

(2) Regulation 6 of the principal regulations is hereby amended by revoking subclause (6), and substituting the following subclause:

“(6) Where, in any financial year, any line owner carries on any of the activities specified in any of paragraphs (a) to (e) of subclause (3) of this regulation, and those activities, taken together,—

“(a) Involve less than 5 percent of those assets of that line owner that are used for the purposes of any of the activities specified or referred to in any of subclauses (1) to (3) of this regulation; and

“(b) Earn less than 5 percent of those revenues of that line owner that are earned from any of the activities specified or referred to in any of subclauses (1) to (3) of this regulation,—

that line owner may, at that line owner’s option, instead of publishing in the *Gazette* and publicly disclosing a financial statement in accordance with subclause (3) of this regulation with respect to those activities, include those activities in the financial statement published in the *Gazette* and publicly disclosed in respect of that financial year pursuant to subclause (2) of this regulation.”

5. Contract disclosure by electricity generators—(1) Regulation 7 of the principal regulations is hereby amended by inserting, after subclause (6), the following subclauses:

“(6A) Not later than the 1st day of July 1996, every electricity generator to which this regulation applies shall, where the prescribed terms and conditions of any prescribed agreement (being a prescribed agreement that was entered into before the 1st day of August 1990 and is subsisting on the 1st day of April 1996) were modified on or after the 1st day of August 1990 but before the 1st day of April 1996, publicly disclose those

modifications that are subsisting on the 1st day of April 1996, identifying in each case the particular prescribed agreement that has been modified.

“(6B) Every electricity generator to which this regulation applies shall, where the prescribed terms and conditions of any prescribed agreement (being a prescribed agreement that was entered into before the 1st day of August 1990) are modified on or after the 1st day of April 1996, not later than 1 month after those modifications take effect, publicly disclose those modifications, identifying in each case the particular prescribed agreement that has been modified.”

(2) Regulation 7 (7) of the principal regulations is hereby amended by inserting, after the expression “subclause (6)”, the expression “or subclause (6A) or subclause (6B)”.

6. Further provisions relating to contract disclosure by electricity generators—(1) Regulation 8 (1) of the principal regulations is hereby amended by inserting, after the expression “subclause (4)”, the expression “or subclause (6)”.

(2) Regulation 8 (2) of the principal regulations is hereby amended—

(a) By inserting, after the expression “subclause (4)”, the expression “or subclause (6)”;

(b) By omitting from paragraph (e) the words “New Zealand Standard Industrial Classification Code”, and substituting the words “Australian and New Zealand Standard Industrial Classification Code 1993”.

(3) Regulation 8 (3) (b) (ii) of the principal regulations is hereby amended by omitting the word “arrangement” where it last appears, and substituting the word “relationship”.

(4) Regulation 8 of the principal regulations is hereby amended by revoking subclause (5), and substituting the following subclauses:

“(5) Where, for the purposes of determining an imputed price for the purposes of subclause (3) of this regulation, an electricity generator does not use the methodology set out in relation to that matter in the Guidelines, that electricity generator shall publicly disclose full details of any differences between the methodology actually used and the methodology so set out in the Guidelines, which details shall be sufficient to enable a meaningful comparison to be made between those 2 methodologies.

“(6) For the purposes of subclause (5) of this regulation, but without limiting the generality of subclause (3) (e) of this regulation, an electricity generator does not use the methodology set out in the Guidelines in relation to a matter if that electricity generator, in the course of or after using that methodology, does anything in relation to that matter that—

“(a) Is not required by the methodology so set out in the Guidelines; or

“(b) Has the effect of producing a different result from the result that would have been produced if the methodology so set out in the Guidelines had been strictly followed.”

7. Contract disclosure by line owners—(1) Regulation 9 of the principal regulations is hereby amended by inserting, after subclause (5), the following subclauses:

“(5A) Not later than the 1st day of July 1996, every line owner shall, where the prescribed terms and conditions of any prescribed agreement (being a prescribed agreement that was entered into before the 1st day of August 1990 and is subsisting on the 1st day of April 1996) were modified

on or after the 1st day of August 1990 but before the 1st day of April 1996, publicly disclose those modifications that are subsisting on the 1st day of April 1996, identifying in each case the particular prescribed agreement that has been modified.

“(5B) Every line owner shall, where the prescribed terms and conditions of any prescribed agreement (being a prescribed agreement that was entered into before the 1st day of August 1990) are modified on or after the 1st day of April 1996, not later than 1 month after those modifications take effect, publicly disclose those modifications, identifying in each case the particular prescribed agreement that has been modified.”

(2) Regulation 9 (6) of the principal regulations is hereby amended by inserting, after the expression “subclause (5)”, the expression “or subclause (5A) or subclause (5B)”.

(3) Regulation 9 (7) (a) of the principal regulations is hereby amended by omitting the word “it”.

8. Further provisions relating to contract disclosure by line owners—Regulation 10 (1) of the principal regulations is hereby amended—

(a) By inserting, after the expression “subclause (3)”, the expression “or subclause (5)”:

(b) By omitting from paragraph (c) the words “New Zealand Standard Industrial Classification Code”, and substituting the words “Australian and New Zealand Standard Industrial Classification Code 1993”.

9. Contract disclosure by electricity retailers—(1) Regulation 11 of the principal regulations is hereby amended by inserting, after subclause (6), the following subclauses:

“(6A) Not later than the 1st day of July 1996, every electricity retailer to which this regulation applies shall, where the prescribed terms and conditions of any prescribed agreement (being a prescribed agreement that was entered into before the 1st day of August 1990 and is subsisting on the 1st day of April 1996) were modified on or after the 1st day of August 1990 but before the 1st day of April 1996, publicly disclose those modifications that are subsisting on the 1st day of April 1996, identifying in each case the particular prescribed agreement that has been modified.

“(6B) Every electricity retailer to which this regulation applies shall, where the prescribed terms and conditions of any prescribed agreement (being a prescribed agreement that was entered into before the 1st day of August 1990) are modified on or after the 1st day of April 1996, not later than 1 month after those modifications take effect, publicly disclose those modifications, identifying in each case the particular prescribed agreement that has been modified.”

(2) Regulation 11 (7) of the principal regulations is hereby amended by inserting, after the expression “subclause (6)”, the expression “or subclause (6A) or subclause (6B)”.

(3) Regulation 11 (8) (a) of the principal regulations is hereby amended by omitting the word “it”.

10. Further provisions relating to contract disclosure by electricity retailers—Regulation 12 (1) of the principal regulations is hereby amended—

- (a) By inserting, after the expression “subclause (4)”, the expression “or subclause (6)”:
- (b) By omitting from paragraph (c) the words “New Zealand Standard Industrial Classification Code”, and substituting the words “Australian and New Zealand Standard Industrial Classification Code 1993”.

11. Disclosure by line owners of financial and efficiency performance measures—(1) Regulation 13 (1) of the principal regulations is hereby amended by inserting, immediately before the word “Within”, the words “Subject to subclause (1A) of this regulation,”.

(2) Regulation 13 of the principal regulations is hereby amended by inserting, after subclause (1), the following subclause:

“(1A) Trans Power is not required to publish in the *Gazette* and publicly disclose, in accordance with subclause (1) of this regulation, the information specified in clause 2 (b) of Part II of the First Schedule to these regulations.”

12. Disclosure of valuation reports—The principal regulations are hereby amended by inserting, after regulation 14, the following regulation:

“14A. (1) Within 5 months after the end of each financial year, (beginning with the 1995–1996 financial year) every line owner shall make available for inspection, during ordinary office hours, at the principal offices of that line owner, copies of a valuation report relating to its line business assets.

“(2) Within 5 months after the end of each financial year (beginning with the 1995–1996 financial year) every line owner shall publish in the *Gazette* and publicly disclose the total value of its line business assets, being the value ascribed to those assets in the valuation report required by subclause (1) of this regulation to be made available for inspection in respect of that financial year.

“(3) Every valuation report disclosed in accordance with subclause (1) of this regulation shall comply with the requirements set out in regulation 14 (3) of these regulations.”

13. Disclosure by line owners (other than Trans Power) of reliability performance measures—Regulation 16 (1) of the principal regulations is hereby amended by omitting the expression “subclause (4)”, and substituting the expression “subclause (3)”.

14. Disclosure of pricing methodologies—(1) Regulation 18 (2) of the principal regulations is hereby amended by omitting the expression “4 months”, and substituting the expression “5 months”.

(2) Regulation 18 of the principal regulations is hereby amended by revoking subclause (5), and substituting the following subclauses:

“(5) Where any line owner (other than Trans Power), for the purpose of determining the prices charged or to be charged for the supply of line function services by means of works owned by that line owner, does not use the methodology set out in relation to that matter in the Guidelines, that line owner shall publicly disclose, in accordance with subclause (1) or, as the case may be, subclause (2) or subclause (3) of this regulation, full details of any differences between the methodology actually used and the methodology so set out in the Guidelines, which details shall be sufficient

to enable a meaningful comparison to be made between those 2 methodologies.

“(6) For the purposes of subclause (5) of this regulation, but without limiting the generality of subclause (1) or, as the case may be, subclause (2) or subclause (3) of this regulation, a line owner does not use the methodology set out in the Guidelines in relation to a matter if that line owner, in the course of or after using that methodology, does anything in relation to that matter that—

“(a) Is not required by the methodology so set out in the Guidelines; or

“(b) Has the effect of producing a different result from the result that would have been produced if the methodology so set out in the Guidelines had been strictly followed.”

15. Disclosure of methodologies for allocation of costs, revenues, etc.—(1) Regulation 19 (1) of the principal regulations is hereby amended by omitting the expression “4 months”, and substituting the expression “5 months”.

(2) Regulation 19 of the principal regulations is hereby amended by revoking subclause (3), and substituting the following subclauses:

“(3) Where, in relation to the allocation, for the purpose referred to in subclause (1) of this regulation, of costs, revenues, assets, and liabilities between the activities referred to in any of paragraphs (a) to (c) of that subclause, any line owner does not use the methodology set out in relation to that matter in the Guidelines, that line owner shall publicly disclose, in accordance with that subclause, full details of any differences between the methodology actually used and the methodology so set out in the Guidelines, which details shall be sufficient to enable a meaningful comparison to be made between those 2 methodologies.

“(3A) For the purposes of subclause (3) of this regulation, but without limiting the generality of subclause (1) of this regulation, a line owner does not use the methodology set out in the Guidelines in relation to a matter if that line owner, in the course of or after using that methodology, does anything in relation to that matter that—

“(a) Is not required by the methodology so set out in the Guidelines; or

“(b) Has the effect of producing a different result from the result that would have been produced if the methodology so set out in the Guidelines had been strictly followed.”

16. Disclosure of information relating to transactions between persons in a prescribed business relationship—Regulation 20 (2) of the principal regulations is hereby amended by omitting the expression “4 months”, and substituting the expression “5 months”.

17. Disclosure of information relating to load groups—(1) Regulation 21 (1) of the principal regulations is hereby amended by omitting the expression “4 months”, and substituting the expression “5 months”.

(2) Regulation 21 of the principal regulations is hereby amended by revoking subclause (3), and substituting the following subclauses:

“(3) Where, for the purpose referred to in subclause (1) (b) of this regulation, a line owner does not use the methodology set out in relation to that matter in the Guidelines, that line owner shall publicly disclose, in accordance with that subclause, full details of any differences between the methodology actually used and the methodology so set out in the

Guidelines, which details shall be sufficient to enable a meaningful comparison to be made between those 2 methodologies.

“(3A) For the purposes of subclause (3) of this regulation, but without limiting the generality of subclause (1) (b) of this regulation, a line owner does not use the methodology set out in the Guidelines in relation to a matter if that line owner, in the course of or after using that methodology, does anything in relation to that matter that—

- “(a) Is not required by the methodology so set out in the Guidelines; or
- “(b) Has the effect of producing a different result from the result that would have been produced if the methodology so set out in the Guidelines had been strictly followed.”

18. Disclosure of line charges—Regulation 22 of the principal regulations is hereby amended by inserting, after subclause (4), the following subclause:

“(4A) Notwithstanding anything in subclause (4) of this regulation, a person to which this regulation applies is not required to give written notice of the information specified in subclause (5) of this regulation to any person who ceases to be a consumer within 3 months of the close of the relevant financial year.”

19. Certificates—Regulation 26 of the principal regulations is hereby amended by adding the following subclause:

“(6) Where a copy of a valuation report is made available for inspection pursuant to regulation 14A (1) of these regulations, the copy of that report shall have appended to it a copy of the certificate given, in relation to that report, in accordance with regulation 25 (4) of these regulations.”

20. Effect of mergers, takeovers, etc.—The principal regulations are hereby amended by revoking regulation 27, and substituting the following regulation:

“27. (1) In this regulation,—

“ ‘Acquire’ means to acquire by way of purchase, merger, takeover, or other similar occurrence:

“ ‘Relevant regulation’ means any of regulations 6, 13, 15, 16, 19, 20, or 21 of these regulations.

“(2) Where,—

“(a) By virtue of any relevant regulation, any entity is required, in respect of any financial year, to publish in the *Gazette* or publicly disclose any information; and

“(b) During that financial year, that entity has acquired, from any other entity, the whole or part of any business,—

then—

“(c) The information published in the *Gazette* or publicly disclosed by the first-mentioned entity, pursuant to that regulation, for that financial year; and

“(d) The information (if any) required to be published in the *Gazette* or publicly disclosed by the other entity, pursuant to any relevant regulation, for that financial year—

shall, so far as practicable, be prepared on the basis that the acquisition of that business or, as the case requires, that part of that business had occurred at the beginning of that financial year.”

21. Retention of information—Regulation 29 of the principal regulations is hereby amended by inserting, after subclause (2), the following subclause:

“(2A) Where any person is required by regulation 14A (1) of these regulations to make copies of a valuation report available for inspection, that person shall make copies of that valuation report available for inspection for a period of at least 4 years after those copies are first made available for inspection by that person.”

22. Statutory declarations—Regulation 30 of the principal regulations is hereby amended by adding the following subclause:

“(2) All further statements, reports, agreements, particulars, and other information supplied to the Secretary under section 171 (1) (b) of the Act by any person shall be verified, by statutory declaration in form 8, by an authorised director or principal of that person.”

23. Amendments to First Schedule—(1) Part I of the First Schedule to the principal regulations is hereby amended by adding, to paragraph (c) of the definition of the term “direct expenditure”, the following subparagraph:

“(iii) Any payment made in respect of the use of the transmission system:”.

(2) Part I of the First Schedule to the principal regulations is hereby amended by adding, to the definition of the term “indirect expenditure”, the following paragraph:

“(c) Any payment made in respect of the use of the transmission system:”.

24. Amendments to Second Schedule—(1) Form 7 in the Second Schedule to the principal regulations is hereby amended by omitting the expression “Reg. 30”, and substituting the expression “Reg. 30 (1)”.

(2) The Second Schedule to the principal regulations is hereby amended by adding the form set out in the Schedule to these regulations.

SCHEDULE

NEW FORM ADDED TO SECOND SCHEDULE TO PRINCIPAL REGULATIONS

Reg. 30 (2)

“Form 8

STATUTORY DECLARATION IN RESPECT OF FURTHER INFORMATION
REQUESTED BY SECRETARY OF COMMERCE

I [insert full name], of [insert address], being a director/principal* of [insert name of entity], solemnly and sincerely declare that having made all reasonable enquiry, to the best of my knowledge, the document(s) attached to this declaration—

- (a) Is/are* the statement(s), report(s), agreement(s), particular(s), information [specify] requested by the Secretary of Commerce on [insert date] pursuant to section 171 (1)(b) of the Electricity Act 1992; and
- (b) Contain(s) all the statements, reports, agreements, particulars, information [specify] in the possession, or under the control, of [insert name of entity] that relate to that request.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared at this day of 19 .

Justice of the Peace (or Solicitor or other person authorised to take a statutory declaration).

*Delete that which is inapplicable”

DIANE WILDERSPIN,
Acting for Clerk of the Executive Council.



EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 April 1996, amend the Electricity (Information Disclosure) Regulations 1994. The principal regulations require persons engaged in the generation, transmission, distribution, or retailing of electricity to disclose certain information relating to their activities. The principal amendments are as follows:

- (a) Regulations 7, 9, and 11 of the principal regulations now require persons to disclose certain modifications of contracts entered into before 1 August 1990:
- (b) Regulations 8, 18, 19, and 21 of the principal regulations have been amended to clarify the detail of disclosure that must be made when a person uses a methodology which is not set out in the Guidelines:
- (c) A new regulation 14A has been inserted to require line owners to disclose, within 5 months after the end of each financial year, the most recent valuation report relating to their line business assets. Valuations contained in such a report must have been made using the ODV method:
- (d) Regulation 27 of the principal regulations has been amended to clarify the obligations of an entity that has acquired or disposed of the whole or part of a business during a financial year.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 14 March 1996.
These regulations are administered in the Ministry of Commerce.