

**Reprint
as at 1 November 2010**



**Electricity Governance
(Connection of Distributed
Generation) Regulations 2007**

(SR 2007/219)

Electricity Governance (Connection of Distributed Generation) Regulations 2007: revoked, on 1 November 2010, by section 166 of the Electricity Industry Act 2010 (2010 No 116).

Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 30th day of July 2007

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to sections 172D(1)(10) and 172J(1)(aa) of the Electricity Act 1992, Her Excellency the Administrator of the Government, act-

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Economic Development.

ing on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

		Page
1	Title	3
2	Commencement	3
3	Purpose	3
4	Outline	3
5	Interpretation	3
6	Distributors must make information publicly available	6
7	Process for obtaining approval to connect	7
8	Connection contract outside regulated terms	7
9	Connection on regulated terms	7
10	Extra terms	8
11	Dispute resolution	8
12	Pricing principles	9
13	Application of regulations to persons other than distributors and generators	9
14	Distributors must act at arms length	9
15	Regulations do not affect rights and obligations under rules	10
	<i>Consequential amendments</i>	
16	Amendments to Electricity Governance Regulations 2003	10
	<i>Transitional provisions</i>	
17	Regulations do not apply to earlier connections	10
	Schedule 1	11
	Process for obtaining approval to connect	
	Schedule 2	31
	Regulated terms for connection of distributed generation	
	Schedule 3	46
	Default dispute resolution process	
	Schedule 4	48
	Pricing principles	
	Schedule 5	52
	Prescribed maximum fees	

Regulations

1 Title

These regulations are the Electricity Governance (Connection of Distributed Generation) Regulations 2007.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Purpose

The purpose of these regulations is to enable connection of distributed generation where connection is consistent with connection and operation standards.

4 Outline

These regulations specify—

- (a) a framework to enable connection of distributed generation where connection is consistent with connection and operation standards; and
- (b) in Schedule 1, processes (including time frames) under which generators may apply to distributors for approval to connect distributed generation (including the information to be exchanged and the criteria for approval); and
- (c) in Schedule 2, the regulated terms that apply to the connection of distributed generation in the absence of contractually agreed terms; and
- (d) in Schedule 3, a default dispute resolution process for disputes related to these regulations; and
- (e) in Schedule 4, the pricing principles to be applied for the purposes of these regulations; and
- (f) in Schedule 5, prescribed maximum fees.

5 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
Act means the Electricity Act 1992

business day means any day of the week other than Saturday, Sunday, or a public holiday (within the meaning of the Holidays Act 2003)

capacity, in relation to a distribution network, means the capability of the network to convey electricity under a range of load and generation conditions in accordance with reasonable and prudent operating practice

congestion management policy means the policies, rules, or conditions referred to in regulation 6(2)(d)

connect, in relation to distributed generation, means to be connected to a distribution network or to a consumer installation that is connected to a distribution network

connection and operation standards, in relation to a distributor or distributed generation,—

- (a) means requirements, as amended from time to time by the distributor, that—
 - (i) are set out in written policies and standards of the distributor; and
 - (ii) relate to the connection of distributed generation and the operation of the distribution network, including requirements relating to the planning, design, construction, testing, inspection, and operation of assets that are, or are proposed to be, connected to the distribution network; and
 - (iii) are made publicly available in accordance with regulation 6; and
 - (iv) reflect, or are consistent with, reasonable and prudent operating practice; and
- (b) includes the following, as amended from time to time by the distributor:
 - (i) the distributor's congestion management policy, as referred to in regulation 6(2)(d); and
 - (ii) the distributor's emergency response policies; and
 - (iii) the distributor's safety standards

consumer installation includes—

- (a) an electrical installation; and
- (b) any fittings that are used, or designed or intended for use, by any person in or in connection with the gener-

ation of electricity so that electricity can be injected into a distribution network

distributed generation means equipment used, or proposed to be used, for generating electricity that—

- (a) is connected, or proposed to be connected, to a distribution network, or to a consumer installation that is connected to a distribution network; and
- (b) is capable of injecting electricity into that distribution network

distribution network means the electricity lines, and associated equipment, owned or operated by a distributor, but does not include—

- (a) the national grid; or
- (b) an embedded network that is used to convey less than 2.5 GWh per annum

distributor has the same meaning as electricity distributor in section 2(1) of the Act

generator means a person who owns or operates distributed generation

reasonable and prudent operating practice, in relation to distributed generation, includes—

- (a) the industry operating standards; and
- (b) measures to avoid the injection of electricity from distributed generation that—
 - (i) exceeds the capacity of the distribution network at the point of injection; or
 - (ii) results in excessive power flow at feeder points or a significant adverse effect on voltage levels; or
 - (iii) results in a significant adverse effect on the quality and reliability of supply to other users of the distribution network; and
- (c) the use or proposed use of reasonable and prudent measures to enable the connection of distributed generation

regulated terms means the terms set out in Schedule 2

retailer has the same meaning as electricity retailer in section 2(1) of the Act

rules means the rules called the Electricity Governance Rules made by the Minister of Energy under section 172H of the Act by notice published in the *Gazette*, as amended from time to time.

- (2) Any term that is defined in the rules and used, but not defined, in these regulations has the same meaning as in the rules.
- (3) Any term that is defined in the Act and used in these regulations, but not defined in these regulations or the rules, has the same meaning as in the Act.

6 Distributors must make information publicly available

- (1) The purpose of this regulation is to require distributors to make certain information publicly available to enable connection of distributed generation where consistent with connection and operation standards.
- (2) Each distributor must make publicly available, free of charge, from its office and Internet site,—
 - (a) application forms for connection of distributed generation; and
 - (b) the distributor's connection and operation standards; and
 - (c) a copy of the regulated terms, together with an explanation of how the regulated terms will apply if—
 - (i) approval to connect distributed generation is granted; and
 - (ii) the distributor and the generator do not enter into a connection contract outside the regulated terms; and
 - (d) a statement of the policies, rules, or conditions under which distributed generation is, or may be, curtailed or interrupted from time to time in order to ensure that the distributor's other connection and operation standards are met; and
 - (e) the application fees specified by the distributor in respect of applications for connection of distributed generation.
- (3) The application forms referred to in subclause (2)(a) must specify the information (including any supporting documents) that must be provided with an application.

7 Process for obtaining approval to connect

- (1) Schedule 1 applies if a generator wishes to apply for approval to connect distributed generation (whether on the regulated terms or outside the regulated terms).
- (2) Distributors must grant approval to connect distributed generation if and as required to do so by Schedule 1.
- (3) Distributors cannot contract out of the provisions of Schedule 1.

8 Connection contract outside regulated terms

If the distributor and the generator enter into a connection contract outside the regulated terms for the connection of distributed generation,—

- (a) their rights and obligations in respect of the connection of the distributed generation are governed by that contract, and accordingly the regulated terms do not apply;
- (b) a breach of the terms of that contract is not a breach of these regulations.

9 Connection on regulated terms

- (1) Schedule 2 sets out the regulated terms for the connection of distributed generation.
- (2) These terms apply if the distributor and the generator do not enter into a connection contract outside the regulated terms by the expiry of the period for negotiating a connection contract under clause 9 or 24 of Schedule 1.
- (3) If the regulated terms apply,—
 - (a) the parties' rights and obligations in respect of the connection of the distributed generation are governed by the regulated terms; and
 - (b) a breach of the regulated terms is not a breach of contract.
- (4) Despite this regulation, the distributor and the generator may at any time, by mutual agreement, enter into a connection contract outside the regulated terms that will apply instead of the regulated terms.

10 Extra terms

- (1) The parties' rights and obligations in respect of a connection on the regulated terms are also governed by any other terms and conditions (**extra terms**) that—
 - (a) were made publicly available under regulation 6(2)(d) in a statement of the terms and conditions that would apply to distributed generation if there is congestion on the distribution network; or
 - (b) cover any other incidental matters (for example, invoicing procedures) if—
 - (i) the matters are not covered by the regulated terms; and
 - (ii) the other matters are reasonable terms and conditions that either were proposed by the distributor during the 30-business-day negotiation period as part of a connection contract outside the regulated terms or are terms that would be implied by law if the connection was under a contract outside the regulated terms; and
 - (iii) the other terms and conditions do not contradict any of the regulated terms.
- (2) In these regulations, if the parties have agreed to change all or any part of 1 or more of the regulated terms as part of a binding contract, the resulting contract is, in total, a contract outside the regulated terms for the purposes of these regulations.

11 Dispute resolution

- (1) Schedule 3 applies—
 - (a) to disputes between the generator and the distributor arising from an allegation that a party has breached any of the regulated terms that apply under regulation 9(2); and
 - (b) if there is any other dispute between a distributor and a generator about an alleged breach of any of the other provisions of these regulations.
- (2) However, Schedule 3 does not apply to disputes between the generator and the distributor—

- (a) arising from an allegation that a party has breached any of the terms of a connection contract outside the regulated terms; or
- (b) arising from an allegation that a party has breached any of the extra terms referred to in regulation 10(1); or
- (c) that the generator and the distributor have agreed should be determined by any other agreed method (for example, under any complaints resolution system that is approved under section 158G of the Act).

12 Pricing principles

Schedule 4 applies in accordance with—

- (a) clause 20 of Schedule 2; and
- (b) clause 4 of Schedule 3.

13 Application of regulations to persons other than distributors and generators

- (1) These regulations also apply, in so far as they are applicable, to—
 - (a) a retailer with whom a distributor or a generator has entered into a contract (for example, a use of systems agreement) that provides for the retailer to have any of the applicable rights, or carry out any of the obligations, that are regulated by these regulations; and
 - (b) any person to whom any of the distributor's or the generator's obligations under the regulated terms are transferred, or any person who assumes any of those obligations.
- (2) These regulations apply to the other persons referred to in sub-clause (1)(a) and (b) in the same way in which they apply to the distributor or the generator, as the case may be.
- (3) This regulation does not limit the rights and obligations of the distributor and the generator under these regulations.

14 Distributors must act at arms length

A distributor must use, in respect of all generators, the same reasonable efforts in processing and considering applications for connection of distributed generation, and in connecting distributed generation, regardless of whether—

- (a) the distributor owns or has a beneficial interest in the generator; or
- (b) the proposed generation is owned by the distributor's associate or by another generator.

15 Regulations do not affect rights and obligations under rules

These regulations do not affect any rights or obligations of a distributor or a generator under the rules.

Consequential amendments

16 Amendments to Electricity Governance Regulations 2003

- (1) This regulation amends the Electricity Governance Regulations 2003.
- (2) Regulation 3(1) is amended by revoking paragraph (b) and substituting the following paragraphs:
 - “(b) other miscellaneous matters related to those rules, including liability, appeals, and exemptions; and
 - “(c) the functions of the Rulings Panel, including functions in relation to regulations made under section 172D of the Act.”
- (3) Regulation 161(a) is amended by inserting “or any other regulations made under section 172D of the Act” after “of these regulations”.
- (4) Regulation 161(e) is amended by inserting “or any other regulations made under section 172D of the Act” after “these regulations”.

Transitional provisions

17 Regulations do not apply to earlier connections

- (1) These regulations do not apply in relation to, or affect, any distributed generation that was connected under a contract entered into before the date on which these regulations come into force, except to the extent that the contract has expired.
- (2) **Expired** does not include cancelled by the distributor before the date on which the contract would otherwise have expired.

Schedule 1
Process for obtaining approval to connect
Contents

r 7

		Page
	Part 1	
	Applications for connection and operation of distributed generation 10 kW or less in total	
1	Outline of Part 1	12
	<i>Application process</i>	
2	Generator wishing to connect must apply	12
3	Distributor's decision on application	14
4	Extension of time by mutual agreement for distributor to process application	15
5	Generator must give notice of intention to proceed	15
	<i>Connection process</i>	
6	Thirty business days to negotiate connection contract if generator notifies intention to proceed	16
7	Testing and inspection	16
8	Connection of distributed generation outside regulated terms if contract negotiated	17
9	Connection of distributed generation on regulated terms if contract not negotiated	17
	Part 2	
	Applications for connection and operation of distributed generation above 10 kW in total	
10	Outline of Part 2	18
	<i>Initial application process</i>	
11	Generator wishing to connect must make initial application and provide information	18
12	Distributor must provide information to generator	20
13	Other matters to assist with decision making	21
14	Distributor and generator must make reasonable endeavours regarding new information	22
	<i>Final application process</i>	
15	Generator must make final application	22
16	Application for connection	22
17	Priority of final applications	23
18	Distributor's decision on application	24

19	Time within which distributor must decide final applications	25
20	Generator must give notice of intention to proceed	25
	<i>Connection process</i>	
21	Thirty business days to negotiate connection contract if generator notifies intention to proceed	26
22	Testing and inspection	27
23	Connection of distributed generation outside regulated terms if contract negotiated	27
24	Connection of distributed generation on regulated terms if contract not negotiated	27
	Part 3 General provisions	
	<i>Confidentiality</i>	
25	Confidentiality of information provided before connection	28
	<i>Annual reporting and record keeping</i>	
26	Distributors must report annually to Electricity Commission	29
27	Electricity Commission must make information from distributors publicly available	30
28	Distributors must keep records	30

Part 1

Applications for connection and operation of distributed generation 10 kW or less in total

1 Outline of Part 1

- (1) This Part applies only to distributed generation that is only capable of generating electricity at a rate of 10 kW or less in total.
- (2) This Part provides for a 1-stage application process.

Application process

2 Generator wishing to connect must apply

- (1) A generator who wishes to connect distributed generation that is only capable of generating electricity at a rate of 10 kW or less in total must apply to the distributor.

Part 1—*continued*

- (2) The generator must apply by—
 - (a) using the application form provided by the distributor that is publicly available under regulation 6(2)(a); and
 - (b) providing any information in respect of the distributed generation proposed to be connected that is—
 - (i) referred to in subclause (3); and
 - (ii) specified by the distributor under regulation 6(3) as being required to be provided with the application.
- (3) The information may include the following:
 - (a) the full name and address of the owner or operator of the distributed generation and the contact details of a person whom the distributor may contact regarding the distributed generation:
 - (b) whether the proposed connection is a new connection or an increase in capacity for an existing connection and evidence of the size (nominal capacity) of the generating unit, including the name plate rating (if known) or other suitable evidence that the generating unit is or will be only capable of generating electricity at a rate of 10 kW or less, including,—
 - (i) if the proposed connection is a new connection, the size (nominal capacity) of the total generation:
 - (ii) if the application is for an increase in capacity for an existing connection, both the size (nominal capacity) of the additional generation and the aggregate size (nominal capacity) of all devices at the point of connection:
 - (c) type of distributed generation (for example, solar photovoltaic):
 - (d) proposed location of the distributed generation and when the distributed generation is likely to be connected:
 - (e) technical specifications of the distributed generation and associated equipment, including—

Part 1—*continued*

- (i) technical specifications of equipment that allows the distributed generation to be disconnected from the network on loss of mains voltage:
 - (ii) manufacturer's rating of equipment:
 - (iii) number of phases:
 - (iv) proposed point of connection to the distribution network (for example, installation control point number and street address):
 - (v) details of either or both of any inverter and battery storage:
 - (vi) details of any load at the proposed point of connection:
 - (vii) details of the connected voltage (for example, 415 V or 11 kV):
 - (f) information showing how the distributed generation complies with the distributor's connection and operation standards:
 - (g) any additional information or documents that are reasonably required.
- (4) The application must be accompanied by the application fee specified by the distributor, which must not exceed the maximum fee prescribed in Schedule 5.
- (5) The distributor must, within 5 business days of receiving an application, give written notice to the applicant advising whether or not the application is complete.

3 Distributor's decision on application

- (1) A distributor must, within 30 business days after the date of receipt of a completed application made in accordance with clause 2, give notice in writing to the applicant stating whether the application is approved or declined.
- (2) A distributor must approve an application to connect distributed generation if—
- (a) the application has been properly made in accordance with these regulations; and
 - (b) the information provided in the application would reasonably support an assessment by the distributor that—

Part 1—*continued*

- (i) the generator will comply at all times with the requirements of the Health and Safety in Employment Act 1992; and
 - (ii) the distributed generation will comply at all times with the Act, and the regulations and rules made under the Act; and
 - (iii) the connection of the distributed generation would be consistent with the distributor's connection and operation standards.
- (3) A notice stating that an application is declined must be accompanied by the following information:
- (a) detailed reasons of why the application has been declined and, if the generator makes a new application, the steps that the applicant can take to ensure connection; and
 - (b) the default process under Schedule 3 for the resolution of disputes about an alleged breach of the regulated terms or any other provision of the regulations.

4 Extension of time by mutual agreement for distributor to process application

- (1) The distributor may seek an extension of the time specified in clause 3(1) by which the distributor must give notice in writing stating whether the application is approved or declined.
- (2) The distributor must do this by notice in writing to the generator specifying the reasons for the extension.
- (3) The generator may grant an extension of up to 20 business days and must not unreasonably withhold consent to an extension.

5 Generator must give notice of intention to proceed

- (1) If the distributor advises that the generator's application to connect distributed generation is approved, the generator must provide written notice to the distributor confirming whether or not the generator intends to proceed with the connection and, if so, confirming the details of the generation to be connected.

Part 1—*continued*

- (2) The generator must give that notice within 10 business days after the day on which the distributor gives notice of approval to connect distributed generation, or within a longer period of time mutually agreed between the distributor and the generator.
- (3) The distributor's duties under these regulations arising from the application for connection of distributed generation no longer apply if the generator fails to give notice to the distributor within the time limit specified in subclause (2).
- (4) Subclause (3) does not prevent the generator making a new application for connection of distributed generation under these regulations.

Connection process

6 Thirty business days to negotiate connection contract if generator notifies intention to proceed

- (1) If a generator gives notice under clause 5, the distributor and the generator have 30 business days (starting on the date on which the distributor receives the notice) during which they must, in good faith, attempt to negotiate a connection contract.
- (2) The distributor and the generator may, by mutual agreement, extend the time specified in subclause (1) for negotiating a connection contract.

7 Testing and inspection

- (1) The generator must test and inspect its distributed generation.
- (2) The generator must give adequate notice of the testing and inspection to the distributor.
- (3) The distributor may send qualified personnel to the site to observe the testing and inspection.
- (4) The generator must provide the distributor with a written test report when testing and inspection is complete, including suitable evidence that the metering installation complies with the metering standards in the rules.

Part 1—*continued*

- (5) The generator must pay any fee specified by the distributor for observing the testing and inspection, up to the maximum fee prescribed in Schedule 5.

8 Connection of distributed generation outside regulated terms if contract negotiated

If the distributor and the generator enter into a connection contract before the period for negotiating a connection contract under this Part expires,—

- (a) the distributor must connect the distributed generation in accordance with that contract as soon as practicable; and
- (b) the generator must complete the testing and inspection under clause 7.

9 Connection of distributed generation on regulated terms if contract not negotiated

If the distributor and the generator do not enter into a connection contract before the period for negotiating a connection contract under this Part expires,—

- (a) the distributor must connect the distributed generation on the regulated terms as soon as practicable after the expiry of that period; and
- (b) the generator must complete the testing and inspection under clause 7.

Part 2

Applications for connection and operation of distributed generation above 10 kW in total

10 Outline of Part 2

- (1) This Part applies only to distributed generation that is capable of generating electricity at a rate above 10 kW in total.
- (2) This Part provides for a 2-stage application process.
- (3) In this Part, unless the context otherwise requires,—
final application means an application made under clause 15
initial application means an application made under clause 11.

Initial application process

11 Generator wishing to connect must make initial application and provide information

- (1) A generator who wishes to connect distributed generation that is capable of generating electricity at a rate above 10 kW in total must first make an initial application to the distributor.
- (2) The generator must make the initial application by—
 - (a) using the application form provided by the distributor that is publicly available under regulation 6(2)(a); and
 - (b) providing any information in respect of the distributed generation proposed to be connected that is—
 - (i) referred to in subclause (3); and
 - (ii) specified by the distributor under regulation 6(3) as being required to be provided with the application.
- (3) The information may include the following:
 - (a) the full name and address of the owner or operator of the distributed generation and the contact details of a person whom the distributor may contact regarding the distributed generation:
 - (b) whether the proposed connection is a new connection or an increase in capacity for an existing connection and evidence of the size (nominal capacity) of the generating unit, including the name plate rating (if known), including,—

Part 2—*continued*

- (i) if the proposed connection is a new connection, the size (nominal capacity) of the total generation:
- (ii) if the application is for an increase in capacity for an existing connection, both the size (nominal capacity) of the additional generation and the aggregate size (nominal capacity) of all devices at the point of connection:
- (c) type of distributed generation (for example, solar photovoltaic):
- (d) proposed location of the distributed generation and when the distributed generation is likely to be connected:
- (e) technical specifications of the distributed generation and associated equipment, including—
 - (i) technical specifications of equipment that allows the distributed generation to be disconnected from the network on loss of mains voltage:
 - (ii) manufacturer's rating of equipment:
 - (iii) number of phases:
 - (iv) proposed point of connection to the distribution network (for example, installation control point number and street address):
 - (v) details of either or both of any inverter and battery storage:
 - (vi) details of any load at the proposed point of connection:
 - (vii) details of the connected voltage (for example, 415 V or 11 kV):
- (f) information showing how the distributed generation complies with the distributor's connection and operation standards:
- (g) the maximum active power injected (MW max):
- (h) the reactive power requirements (MVARs) (if any):
- (i) resistance and reactance details of the generating unit:
- (j) fault level contribution (kA):
- (k) method of voltage control:

Part 2—*continued*

- (l) single line diagram of proposed connection:
 - (m) means of synchronisation and connection and disconnection to the network, including the type and ratings of circuit breaker proposed:
 - (n) details of compliance with frequency and voltage support requirements as specified in the rules (if applicable):
 - (o) proposed periods and amounts of electricity injections into, and offtakes from, the distribution network (if known):
 - (p) any other information that is required by the system operator:
 - (q) any additional information or documents that are reasonably required.
- (4) The application must be accompanied by the application fee specified by the distributor, which must not exceed the maximum fee prescribed in Schedule 5.
- (5) The distributor must, within 5 business days of receiving an initial application, give written notice to the applicant advising whether or not the application is complete.

12 Distributor must provide information to generator

The distributor must provide the generator with a copy of the following within 30 business days of receiving a completed initial application:

- (a) information about the capacity of the distribution network, including both the design capacity (including fault levels) and actual operating levels; and
- (b) information about the extent to which connection and operation of the distributed generation may result in a breach of the relevant standards for safety, voltage, power quality, and reliability of supply to other connected parties; and
- (c) information about any measures or conditions (including modifications to the design and operation of the distribution network or to the operation of the distributed

Part 2—*continued*

- generation) that may be necessary to address the matters referred to in paragraphs (a) and (b); and
- (d) the approximate costs of any network-related measures or conditions identified under paragraph (c) and an estimate of time constraints or restrictions that may delay the connecting of the distributed generation; and
 - (e) information about any further detailed investigative studies that the distributor reasonably considers are necessary to identify any potential adverse effects on the system resulting from the proposed connection, together with an indication of—
 - (i) whether the distributor agrees to the generator, or a suitably qualified agent of the generator, undertaking those studies; or
 - (ii) if not, whether the distributor could undertake those studies and, if so, the reasonable estimated cost of the studies that the generator would be charged; and
 - (f) information about any obligations to other parties that may be imposed on the distributor and that could affect the distributed generation (for example, obligations to Transpower, in respect of other networks, or under the rules); and
 - (g) any additional information or documents that the distributor considers would assist the generator’s application; and
 - (h) information about the extent to which planned and unplanned outages may adversely affect the operation of the distributed generation.

13 Other matters to assist with decision making

- (1) A distributor must provide, if requested by a generator making an initial application, further information that is reasonably necessary to enable the generator to consider and act on the information given by the distributor under clause 12.
- (2) The information that the distributor must provide under subclause (1) may include single line diagrams, equipment rat-

Part 2—*continued*

ings, normal switch configurations (including fault levels), and protection system details relevant to the proposed point of connection of the distributed generation to the distribution network.

- (3) The distributor must provide the further information under this clause within 10 business days of the request being received.

14 Distributor and generator must make reasonable endeavours regarding new information

If a distributor or generator has given information under this Part and subsequently becomes aware of new information that is relevant to the application, the party who becomes aware of the new information must use reasonable endeavours to provide the other party with the new information.

Final application process

15 Generator must make final application

- (1) The generator must make a final application, within 12 months after receiving the information under clauses 12 and 13, if the generator intends to proceed to connect to the distribution network.
- (2) The generator must make the final application by—
- (a) using the final application form provided by the distributor that is publicly available under regulation 6(2)(a); and
 - (b) providing the results of any investigative studies that were identified by the distributor under clause 12(e)(i) as to be undertaken by the generator or the generator's agent.

16 Application for connection

A distributor who receives a final application must use reasonable endeavours to notify in writing—

- (a) all persons who have made an initial application for connection of distributed generation to the particular part of the distribution network that the distributor con-

Part 2—*continued*

siders would be affected by the connection of the distributed generation that is the subject of the final application; and

- (b) all generators who have distributed generation above 10 kW in total connected on the regulated terms to the particular part of the distribution network that the distributor considers would be affected by the connection of the distributed generation.

17 Priority of final applications

- (1) This regulation applies if—
 - (a) a distributor receives a final application for connection to a distribution network (the **first application**); and
 - (b) the distributor receives another final application, within 10 business days after receiving the first application, for connection to a particular part of the distribution network that the distributor considers would be affected by the connection of the distributed generation that is the subject of the first application.
- (2) The distributor—
 - (a) may consider the 2 or more final applications together as if they were competitive bids to use the same part of the network; and
 - (b) must consider the final applications in light of the purpose of these regulations; and
 - (c) in giving reasons under clause 18 in the case of any final application that is declined, must set out the criteria used in making any decision that relates to paragraph (a) or (b).
- (3) In any other case in which a distributor receives more than 1 final application for connection to a similar part of the distribution network, the distributor must consider an earlier final application in priority to other final applications.
- (4) Subclause (3) does not limit clause 19.

Part 2—*continued***18 Distributor's decision on application**

- (1) A distributor must, within the time limit specified in clause 19, give notice in writing to the applicant stating whether the final application is approved or declined.
- (2) A distributor must approve a final application to connect distributed generation, subject to any conditions specified by the distributor that are reasonably required, if—
 - (a) the application has been properly made in accordance with these regulations; and
 - (b) the information provided in the application would reasonably support an assessment by the distributor that—
 - (i) the generator will comply at all times with the requirements of the Health and Safety in Employment Act 1992; and
 - (ii) the distributed generation will comply at all times with the Act and the regulations and rules made under the Act; and
 - (iii) the connection of the distributed generation would be consistent with the distributor's connection and operation standards (assuming that the generator performs the conditions (if any) referred to in subclause (3)).
- (3) A notice stating that an application is approved subject to conditions must be accompanied by the following information:
 - (a) a detailed description of the conditions (or other measures) that are conditions of connection, and what the generator must do to comply with them; and
 - (b) detailed reasons for those conditions (or other measures); and
 - (c) a detailed description of the charges payable by the generator; and
 - (d) the default process for resolution of disputes under Schedule 3, if the generator disputes all or any of the conditions (or other measures) or charges payable.
- (4) A notice stating that an application is declined must be accompanied by the following information:

Part 2—*continued*

- (a) detailed reasons as to why the application has been declined and, if the generator makes a new application, the steps that the applicant can take to ensure connection; and
- (b) the default process for resolution of disputes under Schedule 3.

19 Time within which distributor must decide final applications

- (1) The written notice required by clause 18 must be provided within—
 - (a) 45 business days after the date of receipt of the final application, in the case of an application for distributed generation that is not capable of generating electricity at a rate of at least 1 MW; or
 - (b) 60 business days after the date of receipt of the final application, in the case of an application for distributed generation that is capable of generating electricity at a rate of at least 1 MW but is not capable of generating electricity at a rate of at least 5 MW; or
 - (c) 80 business days after the date of receipt of the final application, in the case of an application for distributed generation that is capable of generating electricity at a rate of at least 5 MW or above.
- (2) The distributor may seek 1 or more extensions of the time specified in subclause (1).
- (3) The distributor must do this by notice in writing to the generator specifying the reasons for the extension.
- (4) The generator may grant an extension of up to 40 business days and must not unreasonably withhold consent to an extension.

20 Generator must give notice of intention to proceed

- (1) If the distributor advises that the generator's final application to connect distributed generation is approved, the generator must provide written notice to the distributor confirming whether or not the generator intends to proceed with the connection and, if so, confirming—

Part 2—*continued*

- (a) the details of the distributed generation to be connected; and
 - (b) that the generator accepts all of the conditions (or other measures) that have been specified by the distributor under clause 18 as conditions of the connection.
- (2) The generator must give that notice within 30 business days after the day on which the distributor gives notice of approval to connect distributed generation, or within a longer period of time mutually agreed between the distributor and the generator.
- (3) If the generator does not accept all of those conditions, but does intend to connect distributed generation, the generator must—
- (a) give notice of the dispute within 30 business days after the day on which the distributor gives notice of approval to connect distributed generation; and
 - (b) give a notice under subclause (1) within 30 business days after the dispute is resolved.
- (4) The distributor's duties under these regulations arising from the application for connection of distributed generation no longer apply if the generator fails to give notice to the distributor of an intention to proceed with the connection within the time limits specified in this clause.
- (5) Subclause (4) does not prevent the generator making a new application for connection of distributed generation under these regulations.

*Connection process***21 Thirty business days to negotiate connection contract if generator notifies intention to proceed**

- (1) If a generator gives notice under clause 20, the distributor and the generator have 30 business days (starting on the date on which the distributor receives the notice) during which they must, in good faith, attempt to negotiate a connection contract.

Part 2—*continued*

- (2) The distributor and the generator may, by mutual agreement, extend the time specified in subclause (1) for negotiating a connection contract.

22 Testing and inspection

- (1) The generator must test and inspect its distributed generation.
- (2) The generator must give adequate notice of the testing and inspection to the distributor.
- (3) The distributor may send qualified personnel to the site to observe the testing and inspection.
- (4) The generator must provide the distributor with a written test report when testing and inspection is complete, including suitable evidence that the metering installation complies with the appropriate metering standards in the rules.
- (5) The generator must pay any fee specified by the distributor for observing the testing and inspection, up to the maximum fee prescribed in Schedule 5.

23 Connection of distributed generation outside regulated terms if contract negotiated

If the distributor and the generator enter into a connection contract before the period for negotiating a connection contract under this Part expires,—

- (a) the distributor must connect the distributed generation in accordance with that contract as soon as practicable; and
- (b) the generator must complete the testing and inspection under clause 22.

24 Connection of distributed generation on regulated terms if contract not negotiated

- (1) If the distributor and the generator do not enter into a connection contract before the period for negotiating a connection contract under this Part expires,—

Part 2—*continued*

- (a) the distributor must connect the distributed generation on the regulated terms as soon as practicable after the later of—
 - (i) the expiry of that period; and
 - (ii) the date on which the generator has fully complied with any conditions (or other measures) that were specified by the distributor under clause 18 as conditions of the connection; and
 - (b) the generator must complete the testing and inspection under clause 22.
- (2) However, to the extent that those conditions (or other measures) were the subject of a dispute under clause 20(3), or of negotiation during the period for negotiation of the connection contract, the distributor must connect the distributed generation on the regulated terms, as soon as practicable after the later of—
- (a) the dates referred to in subclause (1); and
 - (b) the date on which the dispute about the conditions or other measures is finally resolved or negotiated and the generator has performed those conditions (or other matters).

Part 3

General provisions

Confidentiality

- 25 Confidentiality of information provided before connection**
- (1) All information provided with an application made under this schedule, or otherwise provided by the generator under this schedule, must be kept confidential by the distributor except as agreed otherwise by the person who provides the information.
 - (2) Despite subclause (1), the distributor—
 - (a) may, in response to an application for connection of distributed generation, disclose to the applicant that another generator has made an application to connect distributed generation to the distribution network (without identifying who that other generator is); and

Part 3—*continued*

- (b) may, in the case of an application for connection of distributed generation that is only capable of generating electricity at a rate of 10 kW or less in total, generally indicate the location of the possible connection; and
 - (c) may, in the case of an application for connection of distributed generation that is capable of generating electricity at a rate above 10 kW, disclose the size and location of the proposed distributed generation.
- (3) The obligation to keep information confidential includes—
- (a) an obligation not to use the information for any purpose other than enabling the connection of the distributed generation; and
 - (b) an obligation to destroy the information as soon as is reasonably practicable after the later of—
 - (i) when the information is no longer required for the purpose of the connection of the distributed generation; and
 - (ii) 5 years after receiving the information.

Annual reporting and record keeping

26 Distributors must report annually to Electricity Commission

Each distributor must supply a report to the Electricity Commission on or before 1 April each year stating, in relation to the preceding calendar year,—

- (a) the number of applications the distributor has received under Part 1:
- (b) the number of initial applications the distributor has received under Part 2:
- (c) the number of final applications the distributor has received under Part 2:
- (d) the number of those applications that have required an extension of time for processing:
- (e) the numbers of those applications approved and declined:

Part 3—*continued*

- (f) the number of connections completed in that preceding year as a result of those applications and, in relation to each of those connections,—
 - (i) the date of the original application and the date of connection; and
 - (ii) whether the distributed generation was connected in accordance with a contract outside the regulated terms, or on the regulated terms; and
 - (iii) the rated capacity of the generation that was connected:
- (g) the number of connections of distributed generation that were disconnected in that preceding year and, in relation to each of those connections,—
 - (i) the date of the disconnection; and
 - (ii) whether the distributed generation was connected in accordance with a contract outside the regulated terms, or on the regulated terms; and
 - (iii) the rated capacity of the generation that was disconnected.

27 Electricity Commission must make information from distributors publicly available

- (1) The Electricity Commission must publicise the information provided by distributors under clause 26.
- (2) **Publicise** means to make available to the public, free of charge,—
 - (a) on the Commission’s website at all reasonable times; and
 - (b) in any other manner that the Commission may decide.

28 Distributors must keep records

A distributor must maintain, for 5 years, records of all applications received under this schedule and the resulting outcomes (including records of how long it took to connect or decline an application, and justification for these outcomes).

Schedule 2
Regulated terms for connection of distributed generation

r 9

Contents

		Page
<i>General</i>		
1	Overview of regulated terms	32
2	Interpretation	32
3	General obligations	32
<i>Meters</i>		
4	Installation of meters and access to metering information	33
<i>Access</i>		
5	Right of distributor to access generator's premises	33
6	Process if distributor wants to access generator's premises	34
7	Distributor must not interfere with generator's equipment	35
8	Generator must not interfere with, and must protect, distributor's equipment	35
9	Obligation to notify if interference with distributor's equipment or theft of electricity is discovered	35
<i>Interruptions and disconnections</i>		
10	General rule about interruptions	36
11	Circumstances allowing distributor to temporarily disconnect distributed generation	36
12	Obligations if distributed generation temporarily disconnected by distributor	36
13	Adverse operating effects	37
14	Interruptions by generator	37
15	Permanent disconnections	38
<i>Confidentiality</i>		
16	Meaning of confidential information	39
17	General rule about confidentiality	39
18	When confidential information can be disclosed	39
19	Disclosures by employees, agents, etc	41
<i>Pricing</i>		
20	Pricing principles	41
<i>Liability</i>		
21	General rule about liability	41

22	Exceptions to general rule about liability	41
23	Limits on liability	42
24	Liability clauses do not apply to fraud, wilful breach, and breach of confidentiality	43
25	Indemnity	43
26	<i>Force majeure</i>	43

General

1 Overview of regulated terms

This schedule sets out the regulated terms for connection of distributed generation that apply to the connection of distributed generation that is connected in accordance with regulation 9 and Schedule 1.

2 Interpretation

These regulated terms must be interpreted—

- (a) in light of the purpose of these regulations; and
- (b) so as to give business efficacy to the relationship between the distributor and the generator created by these regulations.

3 General obligations

- (1) The distributor and the generator must perform all obligations under these regulated terms in accordance with connection and operation standards (where applicable).
- (2) The distributor and the generator must each construct, interconnect, operate, test, and maintain their respective equipment in accordance with—
 - (a) these regulated terms; and
 - (b) connection and operation standards (where applicable); and
 - (c) the rules.
- (3) The generator must, subject to subclause (2), construct, interconnect, operate, test, and maintain its distributed generation in accordance with—
 - (a) reasonable and prudent operating practice; and

- (b) the applicable manufacturer's instructions and recommendations.
- (4) The distributor and generator must each be fully responsible for the respective facilities they own or operate.
- (5) The distributor and generator must each ensure that their respective facilities adequately protect each other's equipment, personnel, and other persons and their property, from damage and injury.
- (6) The generator must comply with any conditions that were specified by the distributor under clause 18 of Schedule 1 as conditions of the connection (or, to the extent that those conditions were the subject of a dispute under clause 20(3) of that schedule, or of negotiation during the period for negotiation of the connection contract, the conditions or other measures as finally resolved or negotiated).

Meters

- 4 Installation of meters and access to metering information**
- (1) The generator must ensure that 1 or more metering installations are installed that—
 - (a) separately record any inflows of electricity from the distribution network and any electricity injected into the distribution network; and
 - (b) fully comply with the rules.
- (2) The generator must provide to the distributor, at the distributor's request, the interval data and cumulative data recorded by those metering installations.
- (3) The distributor may require that reactive metering be installed for meters that are category 2 or above (as defined in the rules).
- (4) The distributor's requirements in respect of metering measurement and accuracy must be consistent with the rules.

Access

- 5 Right of distributor to access generator's premises**
- (1) The generator must provide the distributor, or a person appointed by the distributor, with safe and unobstructed access onto the generator's premises at all reasonable times—

- (a) for the purpose of installing, testing, inspecting, maintaining, repairing, replacing, operating, reading, or removing any of the distributor's equipment and for any other purpose related to these regulated terms; and
 - (b) for the purpose of verifying metering information; and
 - (c) for the purpose of ascertaining the cause of any interference to the quality of delivery services being provided by the distributor to the generator; and
 - (d) for the purpose of protecting, or preventing danger or damage to, persons or property; and
 - (e) for the purposes of reconnecting or disconnecting the distributed generation; and
 - (f) for any other purpose relevant to either or both of—
 - (i) the distributor connecting distributed generation in accordance with connection and operation standards;
 - (ii) maintaining the integrity of the distribution network.
- (2) The rights of access conferred by these regulated terms are in addition to any right of access the distributor may have under any statute or regulation or contract.

6 Process if distributor wants to access generator's premises

- (1) The distributor must exercise its right of access under clause 5 by,—
- (a) wherever practicable, giving to the generator reasonable notice of its intention and of the purpose for which it will exercise its right of access; and
 - (b) causing as little inconvenience as practicable to the generator in carrying out its work; and
 - (c) observing reasonable and prudent operating practice at all times; and
 - (d) observing any reasonable security or site safety requirements that are made known to the distributor by the generator.
- (2) However, the distributor may take all reasonable steps to gain immediate access where it reasonably believes there is immediate danger to persons or property.

7 Distributor must not interfere with generator's equipment

- (1) The distributor must not interfere with the generator's equipment without the prior written consent of the generator.
- (2) However, if emergency action has to be taken to protect the health and safety of persons, or to prevent damage to property, the distributor—
 - (a) may interfere with the generator's equipment without prior written consent; and
 - (b) must, as soon as practicable, inform the generator of the occurrence and circumstances involved.

8 Generator must not interfere with, and must protect, distributor's equipment

- (1) The generator must not interfere with the distributor's equipment without the prior written consent of the distributor.
- (2) However, if emergency action has to be taken to protect the health and safety of persons, or to prevent damage to property, the generator—
 - (a) may interfere with the distributor's equipment without prior written consent; and
 - (b) must, as soon as practicable, inform the distributor of the occurrence and circumstances involved.
- (3) The generator must protect the distributor's equipment against interference and damage.

9 Obligation to notify if interference with distributor's equipment or theft of electricity is discovered

- (1) If the distributor or the generator discover evidence of interference with the distributor's equipment, or evidence of theft of electricity, the party discovering the interference or evidence must notify the other party within 24 hours.
- (2) If interference with the distributor's equipment at the generator's installation is suspected, the distributor may itself carry out an investigation and present the findings to the generator within a reasonable period.
- (3) The cost of the investigation—
 - (a) must be borne by the generator if it is discovered that interference by the generator, or by its subcontractors,

- agents, or invitees, has occurred, or if the interference has been by a third party, and the generator has failed to provide reasonable protection against interference to the distributor's equipment; and
- (b) must be borne by the distributor in any other case.

Interruptions and disconnections

10 General rule about interruptions

The distributor must make reasonable endeavours to ensure that the connection of the distributed generation is not interrupted.

11 Circumstances allowing distributor to temporarily disconnect distributed generation

Despite clause 10, the distributor may interrupt the connection service, or curtail either the operation or output of the generation, or both, and may temporarily disconnect the distributed generation in any of the following cases:

- (a) in accordance with the distributor's congestion management policy;
- (b) if reasonably necessary for planned maintenance, construction, and repairs on the distribution network;
- (c) for the purpose of protecting, or preventing danger or damage to, persons or property;
- (d) if the generator fails to allow the distributor access as required by clause 5;
- (e) if the generator modifies its distributed generation, without prior authorisation from the distributor, in such a way that it has a material effect on the generator's injection of electricity into the network;
- (f) in accordance with clause 13 (adverse operating effects).

12 Obligations if distributed generation temporarily disconnected by distributor

- (1) The distributor must make reasonable endeavours to—
- (a) notify the generator before any interruption under clause 11; and

- (b) co-ordinate with the generator to minimise the impact of the interruption.
- (2) The distributor and the generator must co-operate to restore the distribution network and the distributed generation to a normal operating state as soon as is reasonably practicable following temporary disconnection.
- (3) In the case of a forced outage, the distributor must, subject to the need to restore the distribution network, make reasonable endeavours to restore service to the generator and to advise the generator of the expected duration of the outage.

13 Adverse operating effects

- (1) The distributor must notify the generator as soon as is reasonably practicable if it reasonably considers that operation of the distributed generation may—
 - (a) adversely affect the service provided to other distribution network customers; or
 - (b) cause damage to the distribution network or other facilities; or
 - (c) present a hazard to any person.
- (2) If, after receiving that notice, the generator fails to remedy the adverse operating effect within a reasonable time, the distributor may disconnect the generation upon reasonable notice (or without notice when reasonably necessary in the event of an emergency or hazardous situation).

14 Interruptions by generator

- (1) This clause applies to any connected distributed generation above 10 kW in total.
- (2) The generator must notify the distributor of any planned outages and must make reasonable endeavours to advise the distributor of any event that affects network operations.
- (3) The generator must make reasonable endeavours to notify the distributor of the interruption and to co-ordinate with the distributor to minimise the impact of the interruption.

15 Permanent disconnections

- (1) Despite clause 10, the distributor may permanently disconnect distributed generation in the following circumstances:
 - (a) on receipt of a request from a generator:
 - (b) without notice, if a generator has failed to comply with either the connection or safety requirements of the distributor and there is an ongoing risk to persons or property:
 - (c) without notice, on receipt of the registry inactive status with reason “De-energised—ready for decommissioning” where the trader has de-energised a site, attempted to recover the meters, and updated the registry to that status:
 - (d) on at least 10 business days’ notice of intention to disconnect, if—
 - (i) the generator has not injected electricity into the network at any time in the preceding 12 months; and
 - (ii) the distributor has not been notified by the generator of reasons for the non-injection; and
 - (iii) the distributor has reasonable grounds for believing that the generator has ceased to operate the distributed generation.
- (2) If the point of connection is to remain as a consumption point, where applicable the generator must cancel any seller contracts and ensure the trader decommissions the embedded generation network service point with the reconciliation manager. The site must revert to a standard ICP.
- (3) If the point of connection is to be disestablished in its entirety, a permanent disconnection must be performed by means of isolation of generation by removal of all electrical connections to distributor’s lines. The distributor must notify the generator within 2 business days of the work having been completed. Where applicable, the generator must cancel any seller contracts, ensure that the retailer decommissions the embedded generation network service point with the reconciliation manager, and that the retailer arranges decommissioning of the ICP.

- (4) Once having the status of decommissioned on the registry, the ICP must not be used again. The process for new connections in Part 1 or 2, as the case may be, of Schedule 1 must be followed if generation is to be connected again at this point of connection.
- (5) Both the distributor and the generator (through notification to a retailer where selling to a retailer) must ensure that the registry is correctly updated throughout this process in accordance with the rules.

Confidentiality

16 Meaning of confidential information

In this schedule,—

confidential information means all data and other information of a confidential nature provided by one party (**A**) to the other (**B**) under these regulated terms, but excludes—

- (a) information known to B before the date it was provided to B by A and that was not obtained directly or indirectly from A;
- (b) information obtained bona fide from another person who is in lawful possession of the information and who did not acquire the information directly or indirectly from A under an obligation of confidence.

17 General rule about confidentiality

- (1) Each party must preserve the confidentiality of confidential information, and must not directly or indirectly reveal, report, publish, transfer, or disclose the existence of any confidential information, except as permitted in subclause (2).
- (2) Each party must only use confidential information for the purposes expressly permitted by these regulated terms.

18 When confidential information can be disclosed

Either party may disclose confidential information in any of the following circumstances:

- (a) if the generator and distributor agree in writing to the disclosure of information:

- (b) if disclosure is expressly provided for under these regulated terms:
- (c) if, at the time of receipt by the party, the confidential information is in the public domain or if, after the time of receipt by either party, the confidential information enters the public domain (except where it does so as a result of a breach by either party of its obligations under this clause or a breach by any other person of that person's obligation of confidence):
- (d) if either party is required to disclose confidential information by—
 - (i) any statutory or regulatory obligation, body, or authority; or
 - (ii) any judicial or arbitration process; or
 - (iii) the regulations of any stock exchange upon which the share capital of either party is from time to time listed or dealt in; or
 - (iv) the rules:
- (e) if the confidential information is released to the officers, employees, directors, agents, or advisors of the party, provided that—
 - (i) the information is disseminated only on a need-to-know basis; and
 - (ii) recipients of the confidential information have been made fully aware of the party's obligations of confidence in relation to the information; and
 - (iii) any copies of the information clearly identify it as confidential information:
- (f) if the confidential information is released to a bona fide potential purchaser of the business or any part of the business of a party, subject to that bona fide potential purchaser having signed a confidentiality agreement enforceable by the other party in a form approved by that other party, and that approval may not be unreasonably withheld.

19 Disclosures by employees, agents, etc

To avoid doubt, a party is responsible for any unauthorised disclosure of confidential information made by that party's officers, employees, directors, agents, or advisors.

Pricing

20 Pricing principles

Connection charges that are payable by the generator must be determined in accordance with the pricing principles set out in Schedule 4.

Liability

21 General rule about liability

- (1) If a distributor or generator breaches any of the regulated terms (whether by act or omission), that party is liable to the other.
- (2) The generator's and the distributor's liability to each other is limited to damages for any direct loss caused by that breach.
- (3) This clause does not limit the liability of either party to pay all charges and other amounts due under these regulations or the regulated terms.

22 Exceptions to general rule about liability

- (1) Neither the distributor nor the generator, nor any of its officers, employees, directors, agents, or advisors, are in any circumstances liable to the other party for—
 - (a) any indirect loss, consequential loss (including, but not limited to, incidental or special damages), loss of profit, loss of revenue (except any liability under clause 21(3)), loss of use, loss of opportunity, loss of contract, or loss of goodwill; or
 - (b) any loss resulting from the liability of the other party to another person; or
 - (c) any loss or damage incurred by the other party if, and to the extent that, this results from any breach of the regulated terms or any negligent action.
- (2) The distributor is not liable, except to the extent caused or contributed to by the distributor in circumstances where the

distributor was not acting in accordance with the regulations (including these regulated terms), for—

- (a) any momentary fluctuations in the voltage or frequency of electricity conveyed to or from the distributed generation's point of connection or nonconformity with harmonic voltage and current levels; or
- (b) any failure to convey electricity to the extent that—
 - (i) the failure arises from any act or omission of the generator or other person, excluding the distributor and its officers, employees, directors, agents, or advisors; or
 - (ii) the failure arises from—
 - (A) a failure to convey or a reduction of injection or supply of electricity into the distribution network; or
 - (B) an interruption in the conveyance of electricity in the network, at the request of the system operator or under a nationally or regionally co-ordinated response to an electricity shortage; or
 - (iii) the failure arises from any defect or abnormal conditions in or about the generator's premises; or
 - (iv) the distributor was taking any action in accordance with the regulations or regulated terms; or
 - (v) the distributor was prevented from making necessary repairs (for example, by Police at an accident scene).
- (3) The generator is not liable for—
 - (a) any failure to perform any obligation under these regulated terms caused by the distributor's failure to comply with the obligation; or
 - (b) any failure to perform any obligation under these regulated terms arising from any defect or abnormal conditions in the distribution network.

23 Limits on liability

The maximum total liability of each party, as a result of a breach of these regulated terms, must not in any circumstances

exceed, in respect of a single event or series of events arising from the same event or circumstance, the lesser of—

- (a) the direct damage suffered or the maximum total liability that the party bringing the claim against the other party has at the time that the event (or, in the case of a series of related events, the first of such events) giving rise to the liability occurred; or
- (b) \$1,000 per kW of installed capacity up to a maximum of \$5 million.

24 Liability clauses do not apply to fraud, wilful breach, and breach of confidentiality

The exceptions in clause 22, and the limits on liability in clause 23, do not apply—

- (a) if a distributor or generator, or any of its officers, employees, directors, agents, or advisors, has acted fraudulently or wilfully in breach of these regulated terms; or
- (b) to a breach of confidentiality under clause 17 by either party.

25 Indemnity

- (1) Each party (the **indemnifying party**) must indemnify the other for damages claimed by third parties to the extent that the loss is caused by a breach of these regulated terms by the indemnifying party, where the loss is materially caused by any action or omission of the indemnifying party.
- (2) The indemnity in this clause is subject to the limits on liability specified in clauses 21 to 24.

26 Force majeure

- (1) A failure by either party to comply with or observe any provisions of these regulated terms (other than payment of any amount due) does not give rise to any cause of action or liability based on default of the provision if—
 - (a) the failure is caused by—
 - (i) any event or circumstance occasioned by, or in consequence of, any act of God, being an event or circumstance—

- (A) due to natural causes, directly or indirectly and exclusively without human intervention; and
 - (B) that could not reasonably have been foreseen or, if foreseen, could not reasonably have been resisted:
 - (ii) a strike, lockout, other industrial disturbance, act of public enemy, war, blockade, insurrection, riot, epidemic, aircraft, or civil disturbance:
 - (iii) the binding order or requirement of any court, government, local authority, the Rulings Panel, or the Electricity Commission, and the failure is not within the reasonable control of the affected party:
 - (iv) the partial or entire failure of supply or availability of electricity to the distribution network:
 - (v) any other event or circumstance beyond the control of the party invoking this clause; and
 - (b) the party could not have prevented such failure by the exercise of the degree of skill, diligence, prudence, and foresight that would reasonably and ordinarily be expected from a skilled and experienced distributor or generator engaged in the same type of undertaking under the same or similar circumstances in New Zealand at the time.
- (2) If a party becomes aware of a prospect of a forthcoming *force majeure* event, it must notify the other party as soon as is reasonably practicable of the particulars of which it is aware.
- (3) If a party invokes this clause, it must as soon as is reasonably practicable notify the other party that it is invoking this clause and of the full particulars of the *force majeure* event relied on.
- (4) The party invoking this clause must—
- (a) use all reasonable endeavours to overcome or avoid the *force majeure* event; and
 - (b) use all reasonable endeavours to mitigate the effects or the consequences of the *force majeure* event; and
 - (c) consult with the other party on the performance of the obligations referred to in paragraphs (a) and (b).

- (5) Nothing in subclause (4) requires a party to settle a strike, lockout, or other industrial disturbance by acceding, against its judgement, to the demands of opposing parties.
-

Schedule 3
Default dispute resolution process

r 11

Contents

	Page
1 Application of this schedule	46
2 Notice of dispute	46
3 Complaints to be treated under Electricity Governance Regulations 2003	46
4 Application of pricing principles to disputes	47
5 Orders that Rulings Panel can make	47

1 Application of this schedule

- (1) This schedule applies in accordance with regulation 11.
- (2) To avoid doubt, this schedule applies to disputes about either of the following:
 - (a) the conditions specified by the distributor under clause 18 of Schedule 1:
 - (b) whether a party is attempting to negotiate in good faith under clause 6 or 21 of Schedule 1.

2 Notice of dispute

- (1) A party must give written notice to the other party of the dispute.
- (2) The parties must attempt to resolve the dispute with each other in good faith.
- (3) If the parties are unable to resolve the dispute, either party may complain in writing to the Electricity Commission.

**3 Complaints to be treated under Electricity Governance
Regulations 2003**

- (1) A complaint made under clause 2(3) must be treated as if it were a notification given under regulation 62 of the Electricity Governance Regulations 2003.
- (2) The following provisions of the Electricity Governance Regulations 2003 apply to the complaint:
 - (a) Part 4, except regulations 61, 63, 64, 65, 75, and the reference in regulation 92 to regulation 75; and

- (b) Part 5; and
 - (c) Part 6, except regulations 111 to 133; and
 - (d) Part 8.
- (3) Those provisions apply—
- (a) to the dispute that is the subject of the complaint in the same way as those provisions apply to a notification of an alleged breach of the rules; and
 - (b) as if references to a participant in those provisions were references to a party under these regulations; and
 - (c) with any further modifications that the Electricity Commission or the Rulings Panel, as the case may be, considers necessary or desirable for the purpose of applying those provisions to the complaint.

4 Application of pricing principles to disputes

- (1) The Electricity Commission and the Rulings Panel must apply the pricing principles set out in Schedule 4 to determine any connection charges payable.
- (2) Subclause (1) applies if—
- (a) there is a dispute under these regulations; and
 - (b) in the opinion of the Electricity Commission or the Rulings Panel it is necessary or desirable to apply subclause (1) in order to resolve the dispute.

5 Orders that Rulings Panel can make

If a complaint is referred to it, the Rulings Panel may make any order, or take any action, that it is able to make or take in accordance with section 172KE of the Act.

Schedule 4

Pricing principles

r 12

- 1 This schedule sets out the pricing principles to be applied for the purposes of these regulations in accordance with regulation 12 (which relates to clause 20 of Schedule 2 and clause 4 of Schedule 3).
- 2 The pricing principles are—

Charges to be based on recovery of reasonable costs incurred by distributor to connect the generator and to comply with connection and operation standards within the network, and must include consideration of any identifiable avoided or avoidable costs

 - (a) subject to paragraph (i), connection charges in respect of distributed generation must not exceed the incremental costs of providing connection services to the distributed generation. For the avoidance of doubt, incremental cost is net of transmission and distribution costs that an efficient service provider would be able to avoid as a result of the connection of the distributed generation:
 - (b) costs that cannot be calculated (eg, avoidable costs) must be estimated with reference to reasonable estimates of how the distributor's capital investment decisions and operating costs would differ, in the future, with and without the generation:
 - (c) estimated costs may be adjusted ex post. Ex-post adjustment involves calculating, at the end of a period, what the actual costs incurred by the distributor as a result of the distributed generation being connected to the distribution network were, and deducting the costs that would have been incurred had the generation not been connected. In this case, if the costs differ from the costs charged to the generator, the distributor must notify and recover or refund those costs after they are incurred (unless the distributor and the generator agree otherwise):

Capital and operating expenses

- (d) where costs include distinct capital expenditure, such as costs for a significant asset replacement or upgrade, the connection charge attributable to the generator's actions or proposals is payable by the generator before the distributor has committed to incurring those costs. When making reasonable endeavours to facilitate connection, the distributor is not obliged to incur those costs until that payment has been received:
- (e) where incremental costs are negative, the generator is deemed to be providing network support services to the distributor, and may invoice the distributor for this service and, in that case, the generator must comply with all relevant obligations (for example, obligations under these regulations and in respect of tax):
- (f) where costs relate to ongoing or periodic operating expenses, such as costs for routine maintenance, the connection charge attributable to the generator's actions or proposals may take the form of a periodic charge expressed in dollars per annum:
- (g) before the connection of distributed generation, the distributor must notify the generator in writing of the connection charges that will be payable, and explain how the connection charges have been calculated:
- (h) after the connection of the distributed generation, the distributor may review the connection charges payable by a generator not more than once in any 12-month period. Following a review, the distributor must notify the generator in writing of any change in the connection charges payable, and the reasons for any change, not less than 3 months before the date the change is to take effect:

Share of generation-driven costs

- (i) if multiple generators are sharing an investment, the portion of costs payable by any one generator—
 - (i) must be calculated so that the charges paid or payable by each generator take into account the relative expected peak of each generator's injected generation; and

- (ii) may also have regard to the percentage of assets that will be used by each generator, the percentage of capacity used by each generator, the relative share of expected maximum combined peak output, and whether the combined peak generation is coincident with the peak load on the network:
- (j) in order to facilitate the calculation of equitable connection charges under paragraph (i), the distributor must make and retain adequate records of investments for a period of 5 years, provide the rationale for the investment in terms of facilitating distributed generation, and indicate the extent to which the associated costs have been or are to be recovered through generation connection charges:
Repayment of previously funded investment
- (k) if a generator has paid connection charges that include (in part) the cost of an investment that is subsequently shared by other generators, the distributor must refund to the generator all connection charges paid to the distributor under paragraph (i) by other generators in respect of that investment:
- (l) if there are multiple prior generators, a refund to each generator referred to in paragraph (k) must be provided in accordance with the expected peak of that generator's injected generation over a period of time agreed between the generator and the distributor.
The refund—
 - (i) must take into account the relative expected peak of each generator's injected generation; and
 - (ii) may also have regard to the percentage of assets that will be used by each generator, the percentage of capacity used by each generator, the relative share of expected maximum combined peak output, and whether the combined peak generation is coincident with the peak load on the network:

- (m) no refund of previous payments from the generator referred to in paragraph (k) is required after a period of 3 years from the initial connection of that generator:

Non-firm connection service

- (n) to avoid doubt, nothing in these regulations creates any capacity or property rights in any part of the distribution network unless these are specifically contracted for. Distributors must maintain connection and lines services to generators in accordance with their connection and operation standards.

- 3 In this schedule, **incremental costs** means the reasonable costs that an efficient service provider would incur in providing electricity distribution services with connection services to the distributed generation, less the costs that the efficient service provider would incur if it did not provide those connection services.

Schedule 5 cls 2(4), 7(5), 11(4), 22(5)
of Schedule 1

Prescribed maximum fees

In this schedule, reference to a kW or MW rate, in relation to distributed generation, is a reference to the kW or MW rate at which distributed generation is capable of generating electricity.

A distributor may require the payment of fees for any of the following activities prescribed under these regulations up to the maximum fee specified in the column opposite that activity:

Fee for application for distributed generation 10 kW or less in total \$

Distributed generation of 10 kW or less in total 200

Fee for initial application for distributed generation above 10 kW

Distributed generation of above 10 kW in total but less than 100 kW in total 500

Distributed generation of 100 kW or above in total but less than 1 MW 1,000

Distributed generation of 1 MW and above 5,000

Fee for observation of testing and inspection under clauses 7 and 22 of Schedule 1

Distributed generation of 10 kW or less in total 60

Distributed generation of above 10 kW in total but less than 100 kW in total 120

Distributed generation of 100 kW and above 1,200

Diane Morcom,
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 the 28th day after the date of their notification in the *Gazette*, enable the connection of distributed generation where consistent with connection and operation standards.

The regulations—

- specify a process and time frame (including the information to be exchanged and the decision criteria for approval) that apply if a generator wishes to connect distributed generation; and
- specify regulated terms that apply to the connection of distributed generation in the absence of agreed terms and conditions.

A generator must accept certain obligations if the generator decides to proceed with connection. In particular, a generator who decides to connect distributed generation under the regulations must pay any connection charges calculated according to the regulated pricing principles.

The distributor does not have unilateral decision rights regarding application of the criteria for connection approval or application of the stipulated pricing methodology. A distributor may stipulate conditions of connection, but does not necessarily have the final say if the generator disputes the conditions.

A generator may complain to the Electricity Commission if it thinks the distributor has not followed the regulated process or applied the regulated approval criteria or the regulated pricing methodology. If the Electricity Commission cannot resolve the dispute, a complaint may be referred to the Rulings Panel for dispute resolution.

The regulations include—

Initial application

- a distributor and a generator must exchange certain information within specified time frames in order to determine the generator's eligibility to connect to the network and to facilitate the timely connection of the distributed generation:

Agreement at any time

- a distributor and a generator may enter into a contract in relation to connection of generation. The regulated terms will apply in the absence of a voluntary connection contract:
- it is only the terms and conditions that the parties can contract out of, not the procedural clauses in *Schedule 1*:

Notice of connection under regulated terms and conditions

- in the absence of a connection contract, a generator who has received connection approval may, within a specified time frame, advise the distributor that it intends to connect its distributed generation, subject to the conditions specified by the distributor and on the regulated terms:
- upon receiving notice of a generator's decision to connect, the distributor must connect the distributed generation on the regulated terms:

Dispute resolution

- any dispute between the generator and distributor in respect of any matters referred to above is to be resolved by the generator and distributor acting in good faith, and failing that, may be referred to the Electricity Commission for resolution. Relevant provisions of the Electricity Governance Regulations 2003 are applied to the dispute if it reaches that point.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes

1 *General*

This is a reprint of the Electricity Governance (Connection of Distributed Generation) Regulations 2007. The reprint incorporates all the amendments to the regulation as at 1 November 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not

included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Electricity Industry Act 2010 (2010 No 116): section 166
