Notes on Clauses

Electricity Supply Industry Amendment (Feed-in Tariffs and Other Matters) Bill 2013

Clause 1 — This clause establishes the short title of the Act.

Clause 2 — This clause provides that the provisions of the Act commence upon proclamation.

Clause 3 — This clause provides that the amendments relate to the *Electricity Supply Industry Act 1995*.

Clause 4 — This clause adds a new definition of 'distributor' for the purposes of the new feed-in tariff provisions. Currently, Aurora Energy is the distributor, but the definition is also robust to the merging of the distribution and transmission functions of Aurora Energy and Transend Networks, respectively, into a single State-owned network business.

The clause also amends the definition of 'reviewable decision' to take into account the insertion of the new Division 5A, and to provide that a feed-in tariff determination made by the Regulator, like other determinations made by the Regulator, is not a reviewable decision for the purposes of the Act.

Clause 5 — This clause amends section 38A, which was introduced as part of the *Electricity Reform (Implementation) Bill 2013* and provides that for the first six months from 1 January 2014, customers who were non-contestable customers immediately prior to 1 January 2014 may only be sold electricity by the retailers who purchase Aurora's customer base. The amendment refines the definition of 'transitional customers' in order to remove doubt that certain types of customers – including new connection and move-in customers during this six month period - are captured by the definition, as originally intended.

Clause 6 — This clause substitutes a new section relating to unmetered supply. The substituted section 43B removes some doubt that that public lighting installations - including street lighting - are contestable from 1 January 2014, consistent with Government policy.

Clause 7 — This clause inserts a new Division 5A in Part 3 of the Principal Act. The clause establishes nine new sections relating to the feed-in tariff arrangements

- Section 44A establishes the definitions of a relevant terms used in Division 5A;
  - Section 44A (2) clarifies that for the purposes of the Bill feed-in tariffs apply to customers' 'net exported' electricity, after the customers' consumption under one or more retail tariffs is taken into account. This is to preserve to current situation where electricity generated by the customer can be used on-site to at

off-set consumption against at least one of their retail tariffs before 'export' to the grid occurs.

- Section 44B establishes the requirements of a 'qualifying system', for the purposes of a customer being eligible to receive a feed-in tariff under the Act. The section provides that the system must either solar, wind or water generation, comply with the relevant Australian standard, have a relevant allowable capacity in relation to the premises at which it is installed, and not be of a type that is prescribed in regulations not to be an eligible system. Consistent with Government policy, the clause provides that the maximum generating capacity of an eligible system is 10kW. However, it also provides that a system may be of a greater capacity where a customer has submitted an application, prior to 31 August 2013, to connect that that larger capacity installation and had it accepted by the distributor. This additional provision has been included to ensure that a small number of existing customers – including schools and churches - who were previously accepted into Aurora's net metering buyback scheme with systems of over 10kW capacity do not lose their eligibility to continue to receive the transitional feed-in rate.

- Section 44C establishes the first category of feed-in tariff customer, known as a 'standard feed-in tariff customer'. Standard feed-in tariff customers are small customers (using less than 150MWh of electricity per annum), with a connected, qualifying generation system, and who are eligible for the regulated fair and reasonable feed-in tariff, but are not eligible for the transitional feed-in tariff.

- Section 44D establishes the second category of feed-in tariff customers, known as 'transitional' feed-in tariff customers. In simple terms, transitional feed-in tariff customers include all residential and small business customers with solar or other systems that were physically connected to the distribution network as at 30 August 2013 and who were not on a power purchase contract with Aurora at the transition day with respect to their feed-in tariff. Also included in this category, once they become physically connected, are customers who could prove - as part of a connection application received by Aurora Energy prior to 31 August 2013 that they had signed a contract and paid a deposit to an installer for a qualifying system.

  Those customers who have not yet connected their systems are referred to as 'recognised applicants' and will automatically become transitional customers upon connection of their system, so long as the system is connected before 31 August 2014 and the system that is installed is of no greater capacity than was nominated in the customer's application.

  Section 44D also establishes the circumstances where a customer ceases to be a transitional customer, which are:

  - When 31 December 2018 expires;
  - For customers who were not connected to the distribution network

at the transition day, a qualifying system has not been installed at the customer's premises by 30 August 2014;

- Where the customer fails to maintain an electricity account in their name at the premises where the system is connected, except where the account is transferred to the customer's spouse or partner; and
- Where the customer increases the generating capacity of their system, including where an eligible transition customer who has not yet installed their system installs a system of a greater capacity than that which was nominated in their application lodged before 31 August 2013.

Finally, 44D provides that where a billing period straddles the end date for the transitional feed-in tariff – 31 December 2018 - a transitional customer is only taken to be eligible to receive the premium feed-in tariff for that period of the billing that occurs prior to that date.

- Section 44E places certain obligations on authorised retailers with regard to the payment of feed-in tariffs to eligible customers
  - Section 44E(1) provides that authorised retailers must provide to a feed-in tariff customer a statement – which can form part of the customer's bill - showing the amount of electricity supplied to the network by the customer, and the amount that the customer has been credited for this electricity;
  - Section 44E(2) provides that authorised retailers must pay the relevant feed-in tariff rate to eligible customers – both 'standard' and 'transitional' feed-in tariff customers;
  - Section 44E(3) specifies that the feed-in tariff billing amount is to be calculated by applying, on a per-kWh basis - the relevant rate for the customer in question to net electricity that is supplied to the network;
  - Section 44E(4) ensures that nothing in the Bill is to be taken to prevent retailers offering – at their own cost - feed-in tariffs that are in excess of the amounts prescribed in the Bill. The section also makes it clear that, where retailers voluntarily offer higher feed-in tariffs, the additional cost of doing this is not borne by the distributor under section 44I.
  - Section 44E(5) provides that the retailer is to pay a feed-in tariff customer in the manner prescribed by the Regulations. The Regulations will provide that a feed-in tariff billing amount is credited against a customer's electricity account and that where a customer's credit exceeds the charges they incur from the retailer that the customer can choose to roll that credit forward to another billing period or receive it as cash payment;
  - Section 44E(6) limits the payment of the prescribed feed-in tariffs to one system per customer per premises. This provision is to

avoid the installation by customers of additional systems in order to circumvent the capacity limitations that apply to customers being eligible to be paid a feed-in tariff; and

- Section 44E(7) provides that where there is more than one system installed at a premises, the customer may choose which system is to be the one to which the feed-in tariff applies.

- Section 44F prescribes the rates that are used to calculate the billing amount credited to both standard and transitional feed-in tariff customers:

  - Sections 44F (1) and (2) prescribe the rates that apply to transitional customers. Different rates apply to residential and small business transitional customers. The rates in the Act are the same as the rates that customers were paid under Aurora's feed-in tariff scheme as at 30 August 2014.

  - Section 44F(3) provides that where a customer is billed monthly, rather than quarterly – as is currently the case - the section provides that the two-step rate that applies to business customers is to be pro-rated for that shorter billing period; and

  - Sections 44F (4) provides that standard feed-in tariff customers are to be paid the rate that is determined by the Regulator under section 44G.

- Section 44G establishes the framework requiring the Tasmanian Economic Regulator to determine the feed-in tariff rate that authorised retailers must offer to standard feed-in tariff customers:

  - Section 44G(1) requires the Regulator to determine the feed-in tariff rate for standard customers;

  - Section 44G(2) provides that the Regulator may determine differential rates for different classes of premises, in the situation where the factors specified in a determination may potentially vary according to, for example, location of the premises;

  - Section 44G(3) provides that the rate may be expresses as a rate per kilowatt hour or a method of calculating the rate;

  - Section 44G(4) provides for the amendment or revocation of a feed-in tariff determination;

  - Section 44G(5) provides for the making of regulations with regard to the making, amending, revoking or adjusting determinations, as well as the recovery of the Regulator's costs;

  - Sections 44G(6) and (7) provide that regulations may provide that the first feed-in tariff determination may be made so as to be consistent with recommendations as to the fair and reasonable rate, provided to the Minister by the Regulator in a report requested by the Minister. Given the need to provide certainty to

customers and the market as soon as possible, the Government has already requested the Regulator to conduct an investigation based on terms of reference that mirror the principles in this Bill. This subsection effectively allows, therefore, for the Report that has been requested by the Minister, once delivered by the Regulator, to be taken as the pricing investigation for the purposes of making the first determination; and

- Sections 44G (8) and (9) provide that a determination remains in force for the period determined in accordance with the Regulations and that any making, amendment or revocation of a determination is to be done in accordance with the Regulations, as applicable.

- Section 44H sets out the principles that the Regulator must consider in making a feed-in tariff determination. The principles align with approaches taken in other jurisdictions and take into account national agreements and policy settings. The principles focus on the fair market value to retailers of net electricity that is exported by feed-in tariff customers. The principles also provide for the consideration of broader costs and benefits to the network, where the Regulator considers these relevant to a feed-in tariff determination.

- Section 44I places certain obligations on the distributor with regard to funding the costs associated with offering transitional customers a premium feed-in tariff until 2019. The section provides that the distributor is liable for the costs incurred by retailers with regard to the prescribed feed in tariff amounts paid to transitional customers, minus the amount that would have been paid to the customer had that customer been a standard feed-in tariff customer. The section also provides that the reimbursement from the distributor can be settled through a reduction in the distributor's network charges invoiced to the relevant retailer

- Section 44J requires the distributor to manage the register of feed-in tariff customers and communicate with retailers and customers with regard to customers' eligibility to receive relevant feed-in tariffs, including where a transitional customer transfers between retailers or ceases to be an eligible transitional customer. The section also provides for regulations to be made that specify information that the distributor must provide in a report to the Regulator. This report will be an annual report containing information including numbers of qualifying systems connected, total capacity and generation of qualifying systems, the numbers of each category of transitional customer and the amounts paid to retailers to cover the cost of offering transitional customers the premium feed-in tariff rate.

Clause 8

This clause amends s121AA of the Principal Act to clarify which costs may be recovered by retailers from the network business with regard to the Pay as You Go product, to remove a possible liability to the merged network

business that was never intended. Section 121AA is intended to provide that meter removal costs associated a customer reverting to a standard metered product within 20 business days of a price increase are borne by the network business. The amendment ensures that the network business is not exposed to cost claims from retailers that are unrelated to this specific circumstance.

Clause 9

This clause provides that the Act is repealed one year after all the provisions in the Act commence. This is a standard provision included in amendment bills, as amendments are incorporated in the Principal Act.