

TASMANIA

ELECTRICITY SUPPLY INDUSTRY AMENDMENT (PRICING) BILL 2017

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ELECTRICITY SUPPLY INDUSTRY AMENDMENT (PRICING) BILL 2017

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
4 May 2017

*(Brought in by the Treasurer, the Honourable Peter Carl
Gutwein)*

A BILL FOR

An Act to amend the *Electricity Supply Industry Act 1995*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Electricity Supply Industry Amendment (Pricing) Act 2017*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Principal Act

In this Act, the *Electricity Supply Industry Act 1995** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by inserting after the definition of *transmission system* the following definition:

WEP order means an order made under section 40ABA(1);

5. Section 40AB amended (Principles to be taken into account in making determinations under section 40AA)

Section 40AB of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:

- (3) For the purposes of this section, the **wholesale electricity costs** of a regulated offer retailer in relation to the provision of standard retail services consist of –
 - (a) if a WEP order is in effect under section 40ABA – the costs of the retailer in purchasing electricity for the purposes of providing those services, calculated in accordance with the methodology

*No. 58 of 1995

for calculating costs that is specified in subsection (3A); or

- (b) if a WEP order is not in effect under section 40ABA – the costs of the retailer in purchasing electricity for the purposes of providing those services, calculated in accordance with the methodology for calculating costs (which includes the approved methodology) that is specified in subsection (3B).

(3A) For the purposes of subsection (3)(a), the methodology for calculating costs consists of the multiplication, of the number of units of electricity purchased by the retailer for the purposes of providing standard retail services, by the wholesale electricity price set out in the WEP order that is in effect.

(3B) For the purposes of subsection (3)(b), the methodology for calculating costs consists of the costs of the retailer in purchasing electricity for the purposes of providing standard retail services, including any adjustment to the costs that would be made if the regulated offer retailer and the Hydro-Electric Corporation were to enter into a contract that –

- (a) was a contract in an approved standard form determined under

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section 43G(1) for a load following swap; and

- (b) contained prices calculated in accordance with the approved methodology in relation to contracts in that approved standard form; and
- (c) related to the same number of units of electricity as the number of units of electricity purchased by the retailer for the purposes of providing those services.

6. Sections 40ABA and 40ABB inserted

After section 40AB of the Principal Act, the following sections are inserted in Subdivision 2:

40ABA. Wholesale electricity price order

- (1) The Minister, by order, may determine an amount to be the wholesale electricity price to a retailer for a unit of electricity specified in the order.
- (2) An order under subsection (1) (a **WEP order**) –
 - (a) must specify –
 - (i) that the order takes effect on and from the day on which notice of the making of the order is published in the *Gazette*

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in accordance with the
Rules Publication Act
1953; or

- (ii) a day, after the day on which notice of the making of the order is published in the *Gazette* in accordance with the *Rules Publication Act 1953*, to be the day on which the order takes effect; and
- (b) must specify the financial year at the end of which the order is to cease to be in effect.
- (3) Except in relation to the first WEP order made under this section, notice of the making of a WEP order is to be published in the *Gazette* in accordance with the *Rules Publication Act 1953* before the 15 May immediately before the financial year that is specified in the order as the financial year at the end of which the order is to cease to be in effect.
- (4) A WEP order –
 - (a) takes effect on the day on which notice of the making of the order is published in the *Gazette* in accordance with the *Rules Publication Act 1953* or, if a later day is specified in the order as the

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day on which the order is to take effect, that later day; and

(b) ceases to be in effect –

(i) at the end of the financial year specified in the order to be the financial year at the end of which the order is to cease to be in effect; or

(ii) on the day on which an order under subsection (7) revoking the order takes effect; or

(iii) immediately before another WEP order takes effect –

whichever occurs first.

(5) If a WEP order is in effect –

(a) the WEP order applies under section 40AB in relation to the making of a determination under section 40AA while the WEP order is in effect; and

(b) the calculation of any prices, in accordance with a determination made under section 40AA (whether the determination is made before or after the WEP order has effect) for a period

specified in the determination, is, if such a calculation of prices has not already been made in relation to the period, to be made in relation to that period by taking into account the methodology specified in section 40AB(3A); and

- (c) any reference, in a determination, or a guideline, made by the Regulator under this Act, to the wholesale electricity price is to be taken to be a reference to the wholesale electricity price to a retailer for a unit of electricity specified in the WEP order; and
 - (d) the Treasurer may, by notice to the Regulator and a regulated offer retailer, specify the criteria to be taken into account by the Regulator in deciding under section 41 whether to approve any draft standing offer prices submitted to the Regulator under section 41(2) by the regulated offer retailer.
- (6) If –
- (a) a WEP order is in effect; and
 - (b) a contract between a regulated offer retailer and the Hydro-

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Electric Corporation is in effect;
and

- (c) the contract relates to managing the financial risk associated with the purchase by the regulated offer retailer of electricity to be supplied by the regulated offer retailer to small customers to whom standing offer prices relate –

the contract is to be taken to have the effect that the wholesale electricity price specified in the WEP order for a unit of electricity is to be the price payable by the regulated offer retailer in relation to each such unit of electricity that is so supplied.

- (7) The Minister may, by order, revoke a WEP order.
- (8) An order under subsection (7) must specify –
 - (a) that the order takes effect on and from the day on which notice of the making of the order is published in the *Gazette* in accordance with the *Rules Publication Act 1953*; or
 - (b) a day, after the day on which notice of the making of the order is published in the *Gazette* in accordance with the *Rules*

Publication Act 1953, to be the day on which the order takes effect.

- (9) An order under subsection (7) takes effect on the day on which notice of the making of the order is published in the *Gazette* in accordance with the *Rules Publication Act 1953* or, if a later day is specified in the order as the day on which the order is to take effect, that later day.
- (10) As soon as practicable after making a WEP order or an order under subsection (7), the Minister must give a copy of the order to –
 - (a) the Regulator; and
 - (b) each regulated offer retailer.

40ABB. Effect of WEP order on certain provisions of instruments

- (1) Clauses 5.1(b)(2), 5.1(b)(6)(iii) and 5.2(a)(2) of the guideline, made by the Regulator, entitled “Standing offer price approval process in accordance with the 2016 Standing Offer Determination” and dated 28 April 2016, are of no effect while a WEP order is in effect.
- (2) Clause 10 of the determination made under section 40AA, entitled “Aurora Energy Pty Ltd 2016 Standing Offer Price Determination (2016 Price-Regulated Retail Service Price

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Determination)” and issued on 5 May 2016, as that determination is amended from time to time, is of no effect while a WEP order is in effect.

7. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.