



# Victoria Government Gazette

No. S 250 Monday 30 December 2002  
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**SPECIAL**

## NOTICE UNDER NATIONAL ELECTRICITY CODE

### Victoria derogations relating to transmission regulatory arrangements

NOTICE is hereby given under Clause 9.1.1(h) of the National Electricity Code, approved under Section 6 of the National Electricity Law which forms the Schedule to the **National Electricity (South Australia) Act 1996** that Chapter 9, Part A (“Transitional Arrangements for Victoria”) of the National Electricity Code is amended.

Amendments have been made to clauses 9.3.1, 9.3.2, 9.4.5, 9.6.1, 9.7.2, 9.7.5, 9.8.3, 9.8.4, 9.8.5, 9.9.10, 9.9A.2 and schedules 9A2 and 9A3; clauses 9.4.1, 9.5.1, 9.5.2, 9.5.3, 9.5.3A, 9.5.4, 9.5.5, 9.5.6, 9.5.7, 9.7.1, 9.7.3, 9.8.2, 9.8.6, 9.9.2, 9.9.3, 9.9.6, 9.9.7, 9.9.8, 9.9A.4 and schedules 9A1.1, 9A1.2, and 9A1.3 have been deleted; and new clauses 9.8.4A, 9.8.4B, 9.8.4C, 9.8.4D, 9.8.4E, 9.8.4F and 9.8.4G have been inserted. These Code changes relate principally to the Victorian regulatory framework for transmission regulation from 1 January 2003 and the removal of redundant provisions.

These amendments to the National Electricity Code commence at the beginning of 1 January 2003.

As required by clause 9.1.1(h) of the National Electricity Code, copies of:

1. the letter from the Hon Theo Theophanus MLC dated 27 December 2002 notifying the National Electricity Code Administrator Limited (ACN 073 942 775) (“NECA”) of the amendments to Chapter 9; and
  2. the letter from the ACCC dated 18 December 2002 to NECA providing interim authorisation for these amendments,
- are set out below.

Both the amendments and copies of the above letters can be viewed in full in the document entitled “Victoria derogations relating to transmission regulatory arrangements” on the Internet website of NECA at [www.neca.com.au](http://www.neca.com.au) under “The Code” – “Gazette notices” section of that website.

The National Electricity Code can be viewed on the NECA Internet website at [www.neca.com.au](http://www.neca.com.au) and at the offices of NECA and the National Electricity Market Management Company Limited (ACN 072 010 327). A list of addresses where the Code can be viewed is available on the NECA website.

Dated 30 December 2002

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Department of Infrastructure

80 Collins Street  
GPO Box 2797Y  
Melbourne Victoria 3001  
Telephone (03) 9655 6666  
Facsimile (03) 9655 6752  
www.doi.vic.gov.au  
DX210410  
Our Ref:

Ref: EN/08/0080

Mr Stephen Kelly  
Managing Director  
National Electricity Code Administrator Limited  
Level 5, 41 Currie Street  
ADELAIDE SA 5000

Dear Mr Kelly

**ACCC INTERIM APPROVAL OF VICTORIAN DEROGATIONS**

I am writing to notify you that on 18 December 2002, the Australian Competition and Consumer Commission (the ACCC) approved the applications for authorisation numbered A90850, A90851 and A90852 concerning amendments to Victoria's derogations under Chapter 9 of the National Electricity Code.

I have enclosed a copy of the ACCC's approval of these authorisation applications, in accordance with the requirements of clause 9.1.1(h) of the Code (Attachment 2). The Code changes approved by the ACCC, and amended to reflect the conditions of authorisation imposed by the ACCC, are set out in Attachment 1 to this letter.

I would appreciate if you could arrange for gazettal of this letter, the Code changes and the enclosed copy of the ACCC's approval before the end of December, with the Code changes taking effect on 1 January 2003 to coincide with the commencement of Code-based regulation of transmission revenues in Victoria.

Thank you for your assistance in preparing and submitting the application for authorisation.

Yours sincerely

Theo Theophanous MLC  
Minister for Energy Industries and Resources

27 / 12 / 2002





Australian Competition & Consumer Commission

GPO Box 520  
Melbourne VIC 3001

Level 35 The Tower  
Melbourne Central  
360 Elizabeth Street  
Melbourne VIC 3000

Ph (03) 9290 1800  
Fax (03) 9663 3699

18 December 2002

Mr Stephen Kelly  
Managing Director  
National Electricity Code Administrator  
Level 5, 41 Currie Street  
ADELAIDE SA 5000

Dear Mr Kelly

**Applications for authorisation – amendments to Chapter 9 derogations relating to Victorian transmission regulatory arrangements  
(Nos A90850, A90851, A90852)**

I refer to the above applications for authorisation of amendments to derogations from the National Electricity Code, lodged with the Australian Competition and Consumer Commission (Commission) on 15 October 2002.

Pursuant to subsection 91(2) of the *Trade Practices Act*, the Commission has decided to grant interim authorisation to the applications subject to the conditions specified below. The decision to grant interim authorisation is made to enable full consideration to be given to the applications, while allowing the proposed changes to operate from 1 January 2003.

The Commission's interim authorisation is granted subject to the following conditions:

- C1 The proposed amendments to the Victorian derogations contained in Chapter 9 of the National Electricity Code in connection with the transition to Code-based regulation of the Victorian transmission revenues must be further amended to:
- (a) reflect that prior to these Code changes taking effect the Commission has already determined VENCORP's transmission network revenue cap for the regulatory control period commencing on 1 January 2003 until 30 June 2008 pursuant to clause 9.8.4 of the Code; and



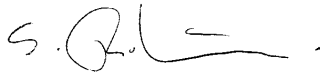
- (b) include such transitional or deeming provisions as are necessary to:
- (i) provide for the transition from the Commission's determination referred to in paragraph (a) to the first determination of the Commission under clause 9.8.4C(d) and the provisions of Part B of Chapter 6 of the Code, as modified by clauses 9.8.4A to 9.8.4E; and
  - (ii) ensure the Commission's determination referred to in paragraph (a) continues to have effect after the adoption of the proposed amendments to Chapter 9 of the Code as if it was a decision of the Commission under clause 9.8.4C(d) and the provisions of Part B of Chapter 6 of the Code as modified by clauses 9.8.4A to 9.8.4 E.
- C2 In Part 1 of the table in proposed clause 9.3.2(a)(1) the phrase "3.13.3(d), (e), (f)(1), (f)(2) and (i)" must be replaced with the phrase "3.13.3(d), (e), (f)(1), (f)(2), (g) (so far as it applies to clauses 3.13.3(f)(1) and (2)) and (i)".
- C3 The heading in Part 2 of the Table in proposed clause 9.3.2(a)(1) must be amended to read "Clause Description".
- C4 The cross reference in proposed clause 9.8.4(a)(2) to clause 9.8.4E must be amended to clause 9.8.4F.
- C5 The cross reference in proposed clause 9.8.4C(f) to clauses 9.8.4C(e)(ii) and (iii) must be amended to 9.8.4C(e)(3)(ii) and (iii).
- C6 The term "Victorian transmission regulatory arrangements" in proposed clause 9.8.4F(a) must be replaced with the following phrase:
- "the EI Act, the ESC Act and the Tariff Order"
- C7 Proposed clause 9.8.4F(g) must be amended as follows:
- a) the words "over the *relevant regulatory period*" must be inserted after the words "the sum of those charges"; and
  - b) the term "the aggregate annual revenue" must be substituted with "its maximum allowable aggregate revenue determined".

This interim authorisation takes effect from 18 December 2002 and will lapse when the Commission's final determination comes into force. Please note however that under subsection 91(2) of the *Trade Practices Act*, the Commission may revoke an interim authorisation at any time.

The Commission will continue with its public consultation process regarding the applications as soon as possible, and expects to release its draft determination early in 2003.

If you have any queries about any issue raised in this letter, please contact Owen Seadon on (03) 9290 1856.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Roberts', with a long horizontal flourish extending to the right.

Sebastian Roberts  
A/g General Manager  
Regulatory Affairs – Electricity

**Cc: The Hon Theo Theophanous MLC, Minister for Energy Industries and Resources  
Richard Bolt, Department of Infrastructure**

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Level 3, 356 Collins Street

Melbourne 3000

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**Subscriptions**

The Craftsman Press Pty. Ltd.

125 Highbury Road, Burwood

Victoria, Australia 3125

Telephone enquiries: (03) 9926 1233

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