



Victoria Government Gazette

No. S 124 Thursday 30 June 2005
By Authority. Victorian Government Printer

Electricity Industry Act 2000

VICTORIAN ELECTRICITY SUPPLY INDUSTRY TARIFF ORDER 2005

Order in Council

The Governor in Council under section 15A of the **Electricity Industry Act 2000** makes the following Order, which comes into operation on 30 June 2005:

Dated 28 June 2005

Responsible Minister
THEO THEOPHANOUS MP
Minister for Energy Industries

RUTH LEACH
Acting Clerk of the Executive Council

VICTORIAN ELECTRICITY SUPPLY INDUSTRY
TARIFF ORDER

SPECIAL

Table of Contents

1.	GENERAL	1
1.1	Application	1
1.2	Definitions	1
1.3	Interpretation	2
2.	PRICE DETERMINATIONS AND EXCLUDED SERVICES	2
2.1	Restrictions on Price Determinations by the ESC	2
2.2	Excluded Services	3
3.	MISCELLANEOUS	5
3.1	The ESC Act	5
3.2	Re-opening a Price Determination	5
	ATTACHMENT	7

1. GENERAL**1.1 Application**

This Tariff Order:

- (a) sets out the pricing principles to be applied by the ESC in making a price determination under section 32 or section 33 or both of the ESC Act regulating charges for connection to, and the use of, Distribution Systems (other than charges for Excluded Services); and
- (b) specifies the criteria to be applied by the ESC in determining, and the manner for determining, whether a particular Distribution service or kind of Distribution service is an Excluded Service, and the basis for the setting of terms and charges for Excluded Services.

1.2 Definitions

The following words have these meanings in this Tariff Order unless the contrary intention appears:

AGL means AGL Electricity Limited (ACN 064 651 083).

CitiPower means CitiPower Pty (ACN 064 651 056).

Distribute or **Distribution** means to distribute or the distribution of electricity using a Distribution System.

Distribution System in relation to a Distributor means a system of electric lines (generally at nominal voltage levels of 66 kV or below) which that Distributor is licensed to use to distribute electricity under a licence granted under Division 3 of Part 2 of the EIA.

Distributor means a person who holds a licence issued under Division 3 of Part 2 of the EIA to distribute electricity or to supply electricity or both. As at the date of this Tariff Order, SPI, Powercor, AGL, CitiPower and United are all Distributors.

EIA means the **Electricity Industry Act 2000**.

Electricity Distribution Code means the code of that name certified by the ESC.

Electricity Retail Code means the code of that name which sets out the terms and conditions determined by the ESC for the purposes of section 36 of the EIA.

ESC means the Essential Services Commission established under section 7 of the ESC Act.

ESC Act means the **Essential Services Commission Act 2001**.

Excluded Service means:

- (a) a Distribution service or kind of Distribution service set out in Part A of the Annexure unless, when making a Price Determination, the ESC does not determine that Distribution service or kind of Distribution service to be an Excluded Service in accordance with clause 2.2(a); or
- (b) any other Distribution service or kind of Distribution service which the ESC determines to be an Excluded Service in accordance with clause 2.2(a) or 2.2(j).

Powercor means Powercor Australia Ltd (ACN 064 651 109).

Price Determination means:

- (a) in clause 3.2 only, a price determination under section 32 or section 33 or both of the ESC Act or under section 24 or section 25 or both of the **Office of the Regulator-General Act 1994** regulating charges for connection to, and the use of, Distribution Systems, other than charges for Excluded Services; and
- (b) in any other clause of this Tariff Order, a price determination under section 32 or section 33 or both of the ESC Act regulating charges for connection to, and the use of Distribution Systems, other than charges for Excluded Services.

SPI means SPI Electricity Pty Ltd (ACN 064 651 118).

United means United Energy Distribution Pty Limited (ACN 064 651 029).

1.3 Interpretation

In this Tariff Order, unless the contrary appears:

- (a) a reference to any statute or code includes all consolidations, amendments, re-enactments or replacements of any such statute or code;
- (b) the singular includes the plural and vice versa; and
- (c) if a word or phrase is specifically defined, then other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

2. PRICE DETERMINATIONS AND EXCLUDED SERVICES**2.1 Restrictions on Price Determinations by the ESC**

In making any Price Determination the ESC must, notwithstanding the criteria specified in the ESC Act or the EIA:

- (a) utilise price based regulation adopting a CPI-X approach and not rate of return regulation;
- (b) where the value of the fixed assets which were allocated to a Distributor (or its predecessor in title) under the allocation statements under sections 117 and 137 of the **Electricity Industry (Residual Provisions) Act 1993** is required to be taken into account, use the adjusted asset value for those assets (identified by reference to the relevant Distributor) as at 1 July 1994 determined in accordance with the table set out below, adjusted to take into account inflation and depreciation on the asset value as increased by inflation since 1 July 1994 and for any disposals since 1 July 1994:

Table					
	SPI \$m	Powercor \$m	AGL \$m	CitiPower \$m	United \$m
Optimised Depreciated Replacement Cost	1,046	1,227	361	482	743
Adjustment	(218)	(161)	61	129	136
Adjusted asset value (opening book value)	828	1,066	422	611	879

- (c) have regard to the need to:
 - (1) provide each Distributor with incentives to operate efficiently;
 - (2) ensure a fair sharing of the benefits achieved through efficiency gains between customers and the Distributors;
 - (3) ensure appropriate incentives for capital expenditure and maintenance in the Distributor's Distribution Systems; and
 - (4) have regard to the level of executive remuneration in each Distributor by reference to any relevant interstate and international benchmarks for such remuneration; and
- (d) subject to clause 3.2, set the price controls (if any) for charges for the use of Distribution Systems for a period of not less than 5 years.

2.2 Excluded Services

- (a) Subject to clauses 2.2(b) and 2.2(j), the ESC may, when it makes a Price Determination (but not at any other time), determine that a Distribution service or kind of Distribution service is an Excluded Service (even if the Distribution service or kind of Distribution service was not previously determined by the ESC

- to be an Excluded Service, or was previously taken under clause 2.2(f) not to be an Excluded Service).
- (b) In making a determination under clause 2.2(a) or clause 2.2(j), the ESC must apply the following principles:
- (1) If, in the reasonable opinion of the ESC, the Distribution service or kind of Distribution service does not satisfy the criteria set out in clauses 2.2(c)(1) and 2.2(c)(2) when it makes the determination, it will not be an Excluded Service.
 - (2) If, in the reasonable opinion of the ESC, the Distribution service or kind of Distribution service satisfies the criteria set out in clause 2.2(c)(2) when it makes the determination (whether or not it also satisfies the criteria set out in clause 2.2(c)(1)), it will be an Excluded Service.
 - (3) If, in the reasonable opinion of the ESC, the Distribution service or kind of Distribution service does not satisfy the criteria set out in clause 2.2(c)(2) when it makes the determination, but satisfies the criteria set out in clause 2.2(c)(1), it may or may not be an Excluded Service.
- (c) The criteria are as follows:
- (1) The cost of providing the Distribution service or kind of Distribution service can be reasonably attributed to a customer provided, or to be provided, with the Distribution service or kind of Distribution service, and that cost need not be recovered through use of system charges.
 - (2) The market for the Distribution service or kind of Distribution service is characterised by competition or the potential for competition.
- (d) Notwithstanding clause 2.2(b) if, in the reasonable opinion of the ESC, a Distribution service or kind of Distribution service satisfies the criteria set out in clause 2.2(c)(1) or 2.2(c)(2), but the ESC considers that the classification of the Distribution service or kind of Distribution service as an Excluded Service would not be feasible, or would have undesirable flow-on effects because:
- (1) the revenues and costs associated with the Distribution service or kind of Distribution service are not easily identifiable and separable from revenues and costs associated with other services or kinds of services the charges for which relate to the use by a customer of a Distribution System; or
 - (2) the administration costs to the relevant Distributor associated with having to treat the Distribution service or kind of Distribution service as an Excluded Service would outweigh the benefits of that treatment,
- then the Distribution service or kind of Distribution service must not be determined by the ESC to be an Excluded Service.
- (e) The Distribution services or kinds of Distribution services set out in Part A of the Attachment are taken to be Excluded Services as at the date this Tariff Order comes into operation.
- (f) The Distribution services or kinds of Distribution services set out in Part B of the Attachment are taken not to be Excluded Services as at the date this Tariff Order comes into operation.
- (g) If the ESC determines, in accordance with clause 2.2(a) or clause 2.2(j) that a Distribution service or kind of Distribution service is an Excluded Service, that Distribution service or kind of Distribution service will be an Excluded Service unless and until, when it subsequently makes a Price Determination, the ESC does not determine that Distribution service or kind of Distribution service to be an Excluded Service in accordance with clause 2.2(a).

- (h) Terms and charges for a Distributor's Excluded Services will be set in accordance with the provisions of Distributors' Distribution licences issued under Division 3 of Part 2 of the EIA and any applicable guidelines published by the ESC, and subject to oversight under the ESC Act.
- (i) If the ESC considers that any Distribution service treated by a Distributor as an Excluded Service is in fact not an Excluded Service, then the ESC may issue a written determination to that effect to the relevant Distributor (giving the reasons for the determination), and the relevant Distributor must cease treating the Distribution service or services specified in the determination as an Excluded Service.
- (j) If, at a particular time:
 - (1) a Distributor provides or proposes to provide a Distribution service or kind of Distribution service; and
 - (2) that Distribution service or kind of Distribution service has not previously been the subject of a determination by the ESC under clause 2.2(a), and is not taken under clause 2.2(e) or 2.2(f) to be or not to be an Excluded Service,
 the ESC may, at that time or a later time, determine that Distribution service or kind of Distribution service to be an Excluded Service, subject to clause 2.2(b).

3. MISCELLANEOUS

3.1 The ESC Act

- (a) Goods or services supplied or provided by a Distributor which are Excluded Services are prescribed goods and services in respect of the electricity industry for the purposes of the ESC Act.
- (b) The price for a good or service which is a prescribed good or service because of clause 3.1(a) is a prescribed price in respect of the electricity industry for the purposes of the ESC Act.

3.2 Re-opening a Price Determination

- (a) Notwithstanding clause 2.1, if at any time after the ESC has made a Price Determination it appears to the ESC that:
 - (1) the Price Determination was made on the basis of information provided by or on behalf of one or more of the Distributors to which the Price Determination applies that was false or misleading in a material particular, then the ESC may revoke the Price Determination;
 - (2) there is a material error in the Price Determination, then the ESC may revoke the Price Determination, but only with the prior written consent of all those Distributors to which the Price Determination applies; or
 - (3) a Distributor to which the Price Determination applies is materially adversely affected by the Price Determination as a result of an event beyond the Distributor's control which was not contemplated at the time the Price Determination was made and, on balance, the benefits of revoking the Price Determination outweigh the detriment to participants in the Victorian electricity supply industry resulting from revoking the Price Determination, then the ESC may revoke the Price Determination, but only with the prior written consent of all those Distributors to which the Price Determination applies.
- (b) If the ESC revokes a Price Determination under clause 3.2(a), then the ESC may make a new Price Determination in substitution for the revoked Price Determination to apply for the remainder of the period for which the revoked Price Determination was to apply or such longer period as the ESC determines.

- (c) If a new Price Determination is made in substitution for a Price Determination revoked under clause 3.2(a)(2), then the new Price Determination must only differ from the revoked Price Determination to the extent necessary to correct the error concerned.
- (d) If a new Price Determination is made in substitution for a Price Determination revoked under clause 3.2(a)(3), then the new Price Determination must only differ from the revoked Price Determination to the extent necessary to enable the Distributor to pass through to its customers that proportion of the financial effect on the Distributor of the event concerned as the ESC considers reasonable in the circumstances by an increase or decrease in the Distributor's charges regulated under the revoked Price Determination.

ATTACHMENT

EXCLUDED SERVICES AND NON-EXCLUDED SERVICES AS AT THE DATE OF THE TARIFF ORDER

Part A: Distribution services or kinds of Distribution services that are taken to be Excluded Services as at the date of this Tariff Order

1. the transportation of electricity not consumed in the Distributor's Distribution System (i.e. inter-network provider distribution);
2. connection to the Distributor's Distribution System;
3. services (including metering, electric lines or electrical plant) for the specific benefit of any third party (and requested by the third party) and not made available by the Distributor as a normal part of standard service to all customers. These services include:
 - (a) the movement of mains, services or meters forming part of the Distributor's Distribution System to accommodate extension, re-design or re-development of any premises;
 - (b) the provision of electric plant for the specific purpose of enabling the provision of top-up or standby supplies or sales of electricity; and
 - (c) the provision of pre-payment meters to customers;
4. the relocation of electric lines plant and the carrying out of associated works pursuant to any statutory obligation imposed on the Distributor;
5. specific services for identified customers;
6. temporary supplies;
7. capital contributions for new works and augmentation;
8. network services for connection points where customers operate parallel generation requiring a stand-by supply;
9. reserve (duplicate) supply;
10. supplies with higher quality and reliability standards than required by the Electricity Distribution Code;
11. the provision of connection points requiring more than the "least overall cost, technically acceptable" assets;
12. Distribution services and system augmentation required to receive energy from:
 - (a) an embedded generator, as defined in a licence issued under Division 3 of Part 2 of the EIA to distribute electricity; or
 - (b) another Distributor;

-
13. the provision of services as a result of customer non compliance with the Electricity Distribution Code or Electricity Retail Code including but not limited to reactive power, line losses in excess of deemed distribution losses due to customer's poor power factor, harmonics, voltage dips and test supplies;
 14. the provision of multiple connection points to a single property to the extent that the charges for the provision of those connection points are not recovered through charges for the use of the Distribution System which are regulated by a Price Determination;
 15. public lighting operations and maintenance;
 16. the provision of public lighting assets constructed after 1 July 1994;
 17. the provision of metering to a standard in excess of that required for the billing of network tariffs;
 18. the collection and processing of meter data; and
 19. the provision of reactive power and energy to a connection point or the receipt of reactive power and energy from a connection point.

Part B: Distribution services or kinds of Distribution services that are taken not to be Excluded Services as at the date of this Tariff Order

1. the transportation of electricity, except as contemplated in paragraph 1 of Part A of this Attachment;
 2. the Distribution of electricity to customers connected at the following existing connection points:
 - (a) Public Transport Corporation – Caulfield;
 - (b) Public Transport Corporation – Cremorne;
 - (c) Public Transport Corporation – Burnley;
 - (d) Public Transport Corporation – North Melbourne;
 - (e) Public Transport Corporation – Rushall;
 - (f) Public Transport Corporation – Victoria Park;
 3. the carrying out of works or the provision of maintenance or repair for the purpose of carrying out Distribution of electricity; and
 4. the provision of any meters, except as contemplated in paragraphs 3(c), 17 and 18 of Part A of this Attachment.
-

This page left blank intentionally

This page left blank intentionally

This page left blank intentionally

craftsmanpress

The *Victoria Government Gazette* is published by The Craftsman Press Pty Ltd with the authority of the Government Printer for the State of Victoria

© State of Victoria 2005

This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act.

Address all enquiries to the Government Printer for the State of Victoria
Level 2 1 Macarthur Street
Melbourne 3002
Victoria Australia

How To Order

	Mail Order	Craftsman Press Pty Ltd 125 Highbury Road Burwood 3125 DX – 32510 Burwood
	Telephone	(03) 9926 1233
	Fax	(03) 9926 1292
	email	gazette@craftpress.com.au
	Retail & Mail Sales	Information Victoria 356 Collins Street Melbourne 3000
	Telephone	1300 366 356
	Fax	(03) 9603 9920
	Retail Sales	City Graphics Level 1 520 Bourke Street Melbourne 3000
	Telephone	(03) 9600 0977
	Fax	(03) 9600 0989

Price Code A