



Victoria Government Gazette

No. S 286 Monday 12 November 2007
By Authority, Victorian Government Printer

Electricity Industry Act 2000 ORDER UNDER SECTIONS 15A AND 46D Order in Council

The Governor in Council, under sections 15A and 46D of the **Electricity Industry Act 2000**, on the recommendation of the Minister, makes the following Order:

1. Commencement

This Order comes into operation on the day it is published in the Government Gazette.

2. Definitions and application of Order

2.1 Defined Terms

In this Order the following definitions apply, unless the context requires otherwise:

“**Act**” means the **Electricity Industry Act 2000**.

“**AMI metering installation**” means a remotely read interval meter that a relevant licensee is required to install under clauses 14.1(a) or 14.3(b) – 14.3(e) of the Cost Recovery Order and which is commissioned by that relevant licensee as part of an AMI system.

“**AMI system**” means the AMI metering installation, communications, infrastructure and all other systems required to comply with the Specifications.

“**Commission**” means:

- (a) the Essential Services Commission established by the **Essential Services Commission Act 2001**;
- (b) any successor agency that regulates electricity distribution charges; or
- (c) any agency that assumes responsibility for the regulation of electricity distribution charges.

“**Cost Recovery Order**” means the Order made by the Governor in Council under sections 15A and 46D of the Act and published in the Government Gazette on 28 August 2007.

“**Department**” means the Department of Primary Industries.

“**Department’s website**” means the internet site of the Department from time to time which, at the date of this Order, is www.dpi.vic.gov.au/energy.

“**distribution licence**” means a licence to distribute or supply electricity issued (or taken to be issued) under the Act.

“**distributor**” means a person who holds a distribution licence.

“**enhanced functionality**” means, in relation to an AMI system, functionality which exceeds the requirements provided for in the Functionality Specification.

“**enhanced service levels**” means, in relation to an AMI system, levels of service which exceed the requirements provided for in the Service Levels Specification.

“**Functionality Specification**” means the minimum State-wide functionality requirements and performance levels set out in sections 3 and 4, respectively, of the document entitled “Minimum AMI Functionality Specification (Victoria)” approved by the Minister and published on the Department’s website on 18 October 2007, as amended in accordance with clause 6 from time to time.

“**Independent Expert Panel**” means a panel constituted under clause 8.

“**interval meter**” means a meter that records interval energy data.

SPECIAL

“**ISC**” means the Advanced Metering Infrastructure Industry Steering Committee (formerly known as the Industry Strategy Group) established by the Department to oversight the rollout of remotely read interval meters in Victoria.

“**meter**” means a device which measures and records the production or consumption of electrical energy.

“**remotely read interval meter**” means an interval meter that meets the functionality requirements set out in the Functionality Specification and:

- (a) is designed to transmit metering data to a remote location for data collection; and
- (b) does not, at any time, require the presence of a person at, or near, the meter for the purposes of data collection or data verification (whether this occurs manually as a walk-by reading or through the use of a vehicle as a close proximity drive-by reading),

including, but not limited to, an interval meter that transmits metering data via direct dial-up, satellite, the internet, general packet radio service, power line carrier, or any other equivalent technology.

“**retail licence**” means a licence to sell electricity issued under the Act.

“**retailer**” means a person who holds a retail licence.

“**Service Levels Specification**” means the services and minimum service levels set out in section 4 of the document entitled “Minimum AMI Service Levels Specification (Victoria)” approved by the Minister and published on the Department’s website on 18 October 2007, as amended in accordance with clause 6 from time to time.

“**Specifications**” means the Functionality Specification and the Service Levels Specification.

2.2 Relevant licensee

Each distributor and retailer is a relevant licensee for the purposes of section 46C of the Act and, accordingly, is required to comply with this Order as a condition of its licence.

3. Functionality

- (a) Each relevant licensee that is required to install an AMI metering installation under the Cost Recovery Order must use its best endeavours to ensure that the related AMI system complies with the Functionality Specification.
- (b) The Functionality Specification sets out minimum functionality requirements for AMI systems. For the avoidance of doubt, a relevant licensee may install an AMI system with enhanced functionality.

4. Service levels

- (a) Each relevant licensee that is required to install an AMI metering installation under the Cost Recovery Order must use its best endeavours to operate the related AMI system in accordance with the Service Levels Specification.
- (b) The Service Levels Specification sets out minimum service level requirements for AMI systems. For the avoidance of doubt, a relevant licensee may provide enhanced service levels in relation to an AMI system.

5. Enhanced functionality and enhanced service levels

- (a) A relevant licensee (the *relevant person*) seeking the provision of enhanced functionality and/or enhanced service levels in relation to an AMI system may request the relevant licensee that is required to install the relevant AMI metering installation(s) under the Cost Recovery Order in writing to provide such enhanced functionality and/or enhanced service levels to apply between the relevant person and the relevant licensee in relation to one or more AMI systems. The written request must provide details of the enhanced functionality and/or enhanced service levels sought by the relevant person.

- (b) A relevant licensee that receives a request in accordance with clause 5(a) must negotiate in good faith with the relevant person in relation to the provision of such enhanced functionality and/or enhanced service levels and must respond to the relevant person within 30 days of the later of:
 - (i) the date on which the relevant licensee receives the relevant person's written request; and
 - (ii) the date on which the relevant licensee receives all information which the relevant licensee reasonably requires to make an offer under this clause 5(b), offering to provide the enhanced functionality and/or the enhanced service levels requested on fair and reasonable terms having regard to any necessary access arrangements and feasibility.
- (c) In the course of conducting negotiations regarding enhanced functionality and/or enhanced service levels, each party must provide, in response to a reasonable request, information to the other party that may assist the negotiation process.
- (d) If the relevant person considers that:
 - (i) the relevant licensee is not negotiating in good faith; or
 - (ii) the terms offered to the relevant person by the relevant licensee are not fair and reasonable,the relevant person may by written notice refer the matter for resolution by an Independent Expert Panel in accordance with clause 7.

6. Review of Specifications

6.1 Annual Reviews by the Minister

- (a) Prior to the end of the first quarter of each calendar year after the commencement of this Order, the Minister must determine whether to conduct a review of the Specifications during that calendar year.
- (b) In determining whether to conduct a review of the Specifications under clause 6.1(a), the Minister must consult with the ISC in relation to the need for a review and the timeframe, scope and process for any such review.
- (c) Despite clause 6.1(a), if the Minister decides to conduct a review of the Specifications in the first calendar year after the commencement of this Order, the Minister must complete that review by 31 March 2008.

6.2 Reviews initiated by the ISC

- (a) The ISC may consider and assess the materiality of issues raised by members in relation to the Specifications that may pose a significant risk to the achievement of timeframes and targets set out in the Cost Recovery Order or to compliance with the functionality requirements or service levels in accordance with clause 3 or clause 4. In accordance with a resolution of the ISC to do so, the ISC may make recommendations to the Minister in relation to the amendment or otherwise of the relevant Specification and the timeframe, scope and process for any such review.
- (b) Following the receipt of recommendations from the ISC under clause 6.2(a), the Minister must determine whether to conduct a review of the Specifications on the basis of the ISC recommendations.
- (c) The Minister must make the determination under clause 6.2(b) within four weeks of the date on which the Minister received the ISC recommendations.

6.3 Conduct of reviews

- (a) The Minister will determine the timeframe, scope and process for each review to be conducted under clause 6.1 or 6.2 on a case by case basis having regard to any consultation with, or any recommendation from, the ISC.

- (b) In conducting a review of the Specifications, the Minister must provide an opportunity for submissions to be made by the ISC, each relevant licensee and the Commission. The Minister may invite submissions from other parties in relation to such a review.
 - (c) When conducting a review of the Specifications, the Minister must have regard to:
 - (i) the principle that the service levels set out in the Service Levels Specification should be optimised over time;
 - (ii) the costs and benefits of any proposed changes to the Specifications;
 - (iii) the need to allow for further AMI systems development, new capabilities and new services;
 - (iv) the time required for implementation of any changes to the Specifications and any transitional arrangements that may be required;
 - (v) opportunities for operational and cost efficiencies that may arise from the development of the national smart meter roll-out; and
 - (vi) the ability of relevant licensees to recover costs associated with the change to the Specifications.
 - (d) Clause 6.3(c) does not limit the matters to which the Minister may have regard in conducting a review under clause 6.1 or 6.2.
- 6.4 Application of change
- (a) Following a review of a Specification, the Minister may amend the Specification, taking into account the comments of relevant licensees and other interested persons.
 - (b) The Minister will determine the date on which any change to a Specification will take effect, taking into account the comments of relevant licensees and other interested persons.
 - (c) The Minister will notify each relevant licensee of his decision whether to change the Specification within four weeks of the date of conclusion of the review.
 - (d) Notice of any amendment to a Specification under this clause 6.4 will be published on the Department's website within four weeks of the date on which notice is provided by the Minister under clause 6.4(c).
- 6.5 No limitation
- Clause 6 does not limit the power of the Governor in Council to vary or revoke this Order.
7. **Dispute Resolution**
- (a) If a notice under clause 5(d) of this Order refers a matter for resolution under this clause 7, then the relevant person and the relevant licensee will meet and use reasonable endeavours to agree the composition of an Independent Expert Panel.
 - (b) Unless otherwise agreed under clause 7(a), the Independent Expert Panel must be comprised of:
 - (i) one technical or operational expert;
 - (ii) one legal expert; and
 - (iii) one economic expert.
 - (c) In the event the parties cannot agree the composition of the Independent Expert Panel within 7 days of the receipt of a notice under clause 5(d), then either party may refer the matter to the Commission to nominate suitably qualified persons to be appointed to the Independent Expert Panel, provided that the Commission will not be bound by clause 7(b) in relation to the composition of the Independent Expert Panel.
 - (d) The Independent Expert Panel will:
 - (i) act as an expert and not as an arbitrator;

- (ii) be comprised of members who have no interest or duty which conflicts, or which may conflict, with their function as members of the Independent Expert Panel; and
 - (iii) treat all matters related to the dispute, including the existence of the dispute as confidential.
- (e) Each party:
- (i) may be legally represented at any hearing before the Independent Expert Panel;
 - (ii) will be entitled to produce to the Independent Expert Panel any materials or evidence which that party believes is relevant to the matter; and
 - (iii) will make available to the Independent Expert Panel all materials requested and all other materials which are relevant to the Independent Expert Panel's determination.
- (f) The Independent Expert Panel will not be bound by the rules of evidence.
- (g) The Independent Expert Panel will have the power to inform itself independently as to the facts to which the matter relates and to take such measures as the Independent Expert Panel thinks fit to expedite the determination of the matter.
- (h) The Independent Expert Panel will make a determination on the matter which will, in the absence of bias or manifest error, be final and binding upon the parties.
- (i) Unless otherwise determined by the Independent Expert Panel, the costs in relation to a determination by the Independent Expert Panel will be dealt with as follows:
- (i) the costs associated with the Independent Expert Panel will be borne equally by the parties; and
 - (ii) the parties will bear their own costs incurred in the preparation and presentation of any submissions or evidence to the Independent Expert Panel.
- (j) No party is relieved from performance of an obligation under this Order during the investigation and determination of a matter by an Independent Expert Panel.

8. Amendment of Cost Recovery Order

The Cost Recovery Order is amended as follows:

- (a) by inserting the following definition in clause 2.1 (in the correct alphabetical order):
“**specification change event**” means the amendment by the Minister of the functionality or performance and service levels specification referred to in a further Order in Council to be made under section 46D of the Act.
- (b) by deleting the definition of ‘relevant pass through event’ in clause 2.1 and replacing it with:
“**relevant pass through event**” means a change in taxes event, a financial failure of a retailer event, a declared retailer of last resort event or a specification change event.

Dated 12 November 2007

Responsible Minister
PETER BATCHELOR, MP
Minister for Energy and Resources

CHRISTINE TRAN
Acting Clerk of the Executive Council

Interpretation of Legislation Act 1984

SPECIFICATIONS FOR ADVANCED ELECTRICITY METERS

Notice of Incorporation of Documents

As required by section 32 of the **Interpretation of Legislation Act 1984**, I give notice that the Order in Council made on 12 November 2007 under sections 15A and 46D of the **Electricity Industry Act 2000** applies, adopts or incorporates the following documents:

| Subordinate Instrument provision | Title of Document | Matter in document |
|--|---|---------------------------|
| Clause 2.1, definition of "Functionality Specification" | Minimum AMI Functionality Specification (Victoria) | Sections 3 and 4 |
| Clause 2.1, definition of "Service Levels Specification" | Minimum AMI Service Levels Specification (Victoria) | Section 4 |

A copy of the matter applied, adopted or incorporated by the subordinate instrument is available for inspection, without charge, by the public during normal business hours at the offices of the Energy and Earth Resources Policy Division, Department of Primary Industries, level 17, 1 Spring Street, Melbourne.

Dated 12 November 2007

PETER BATCHELOR, MP
Minister for Energy and Resources

This page was 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 2007

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****Victoria Government Gazette**

Level 1 520 Bourke Street
Melbourne 3000
PO Box 1957 Melbourne 3001
DX 106 Melbourne

**Telephone**

(03) 9642 5808

**Fax**

(03) 9600 0478

email

gazette@craftpress.com.au

**Retail & Mail Sales****Victoria Government Gazette**

Level 1 520 Bourke Street
Melbourne 3000
PO Box 1957 Melbourne 3001

**Telephone**

(03) 9642 5808

**Fax**

(03) 9600 0478

**Retail Sales****Information Victoria**

505 Little Collins Street
Melbourne 3000

**Telephone**

1300 366 356

**Fax**

(03) 9603 9920

Price Code A