



Pricing investigation relating to certain provisions in the Wholesale  
Contract Regulatory Instrument

Consultation Paper

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# INVITATION TO MAKE SUBMISSIONS

It is the Tasmanian Economic Regulator's (Regulator) policy to publish all submissions on the Office of the Tasmanian Economic Regulator's (OTTER) website unless the author of the submission requests confidentiality in relation to the submission (or any part of the submission). Those parts of a submission that are requested to be confidential should be submitted as an attachment to that part suitable for publication.

The Regulator will not publish submissions which contain material that the Regulator believes is, or could be, derogatory or defamatory.

Submissions should be received by close of business on 16 September 2019.

To facilitate the publication of submission on OTTER's website, submissions by email are preferred. Submissions and enquires may be made to:

[office@economicregulator.tas.gov.au](mailto:office@economicregulator.tas.gov.au)

or to

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A copy of this Consultation Paper is also available on the Regulator's website: [www.economicregulator.tas.gov.au](http://www.economicregulator.tas.gov.au).

Following consideration of submissions, the Regulator will publish a final investigation report on its website.



# 1 BACKGROUND

The Regulator is responsible for the regulation of some of Hydro Tasmania's wholesale contract activities under the *Electricity Supply Industry Act 1995* (ESI Act).

Under section 43G(1) of the ESI Act, the Regulator is required to approve a number of matters relating to Hydro Tasmania's wholesale contract activities. These approvals are embodied in a Wholesale Contract Regulatory Instrument (Instrument).

On 28 November 2017, the Australian Energy Market Commission amended the National Electricity Rules by changing the settlement period for the electricity spot price in the National Electricity Market (NEM) from 30 minutes to five minutes. The change will take effect from 1 July 2021 and therefore will apply from the third quarter of 2021.

On 19 June 2019, Hydro Tasmania raised concerns with the Regulator that the November 2017 Instrument did not provide for the change in the settlement period that will apply from 1 July 2021.

Hydro Tasmania is required under section 43I of the ESI Act to offer approved financial risk contracts (approved contracts) to authorised retailers selling electricity in Tasmania, and, if requested by the retailers, to enter into these contracts with these retailers.

The November 2017 Instrument required Hydro Tasmania to offer prices for approved contracts each week for a minimum of eight future quarters. Consequently, from 1 July 2019, Hydro Tasmania would have been required to offer prices for approved contracts for the third quarter in 2021 and potentially enter into approved contracts that referred to settlement periods that would have been inconsistent with the National Electricity Rules.

The Regulator conducted a pricing investigation in June 2019 to address this issue. The Regulator published a consultation paper proposing a number of changes to the Instrument. The proposed solution did not resolve the issue as there are both direct and indirect references to a 30 minute settlement period in the Instrument. There was insufficient time to make all the changes necessary and ensure there were no unforeseen consequences in other parts of the Instrument.

As an interim solution, the Regulator decided to make a new Instrument, effective from 2 July 2019, which required Hydro Tasmania to offer contracts for a minimum of seven future quarters. As a result Hydro Tasmania was not required to offer contracts for the third quarter 2021 during the third quarter 2019. The Regulator also decided to conduct another pricing investigation commencing in August 2019 to identify and implement a longer-term solution.

## **Scope and objective of the investigation**

The Regulator does not have the ability to amend the approvals made under section 43G(1) of the ESI Act. However, under section 43G(4) the Regulator has the ability to revoke an approval made under section 43G(1) and make a new approval. Regulation 21 of the Electricity Supply Industry (Pricing and Related Matters) Regulations 2013 (the Pricing Regulations) requires the Regulator to conduct a pricing investigation prior to revoking or making an approval.

The objective of the August 2019 pricing investigation is to provide the Regulator with information to determine whether to revoke the approvals in the July 2019 Instrument, and whether to make new approvals, to be embodied in a new Instrument, which reflects the spot market settlement arrangements in the NEM both before and after 1 July 2021.

The investigation will not consider any other potential changes to the Instrument, except where there may be consequential changes arising from the changed spot market settlement arrangements.

### Proposed action

The Regulator proposes revoking the existing Instrument and making a new Instrument that contains all the provisions in the existing Instrument but with the changes shown in Table 1.

Where applicable, the proposed changes seek to align with wording used by AFMA (The Australian Financial Markets Association). The proposed changes are designed to enable the Instrument to apply in a manner which will be unaffected by any delay in the timing of the change to five minute settlement.

Table 1 Proposed changes to July 2019 Instrument

<b><i>Main body of Instrument</i></b>	
Part 4 – Offer Process and Limits on Offer Obligation, (page 29).	Change the number of future quarters that Hydro Tasmania must offer contracts for from seven to eight as follows:  Replace  “that Contract Quarter is more than 7 Quarters in the future”  with  “that Contract Quarter is more than 8 Quarters in the future”
<b><i>Definitions in Instrument</i></b>	
Calculation Period in Clause 28.1 (page 55)	Change the definition from:  <b>Calculation Period</b> means each consecutive period of 30 minutes, the first commencing at 12.00am each day.  to:  <b>Calculation Period</b> means each successive period corresponding to a trading interval (as defined in the National Electricity Rules) with the first of those periods starting at 0000 hours Eastern

	Standard Time (EST) on a day and the last of those periods ending at 2400 hours (EST) on a day. <sup>1</sup>
Peak Calculation Period in Clause 28.1 (page 62)	<p>To ensure the consistent use of 24 hour time, change the definition from:</p> <p><b>Peak Calculation Period</b> means a Calculation Period that occurs between 7.00am and 10.00pm (both inclusive) on a Business Day.</p> <p>to:</p> <p><b>Peak Calculation Period</b> means a Calculation Period that occurs between 0700 hours Eastern Standard Time (EST) and 2200 hours (EST) (both inclusive) on a Business Day.</p>
Quarterly Load Maximum in Clause 28.1(page 63)	<p>Change the definition from:</p> <p><b>Quarterly Load Maximum</b> means, for a Quarter, the maximum half-hourly electricity demand experienced in a Calculation Period in Tasmania in that Quarter, determined using the aggregate price and demand data most recently published for that Quarter by AEMO, in MW.</p> <p>to:</p> <p><b>Quarterly Load Maximum</b> means, for a Quarter, the maximum electricity demand experienced in a Calculation Period in Tasmania in that Quarter, determined using the aggregate price and demand data most recently published for that Quarter by AEMO, in MW.</p>
<b><i>Schedules (applicable as indicated)</i></b>	
Calculation Periods in Clause 1 of Schedules 3, 4 and 6 (pages 91,100 and 110 respectively)	<p>Change the definition from:</p> <p>Each consecutive period of 30 minutes, the first period commencing at 0000 on the Effective Date and the last commencing at 2330 on the Termination Date.</p> <p>to:</p> <p>Each successive period corresponding to a trading interval (as defined in the National Rules) with the first of those periods starting at 0000 hours Eastern Standard Time (EST) on the</p>

<sup>1</sup> While this wording is not exactly the same as used by AFMA, as the AFMA wording is for use in a confirmation and includes references to the Effective Date and Termination Date which are used in the confirmations annexed to the Instrument.

	Effective Date and the last of those periods ending at 2400 hours (EST) on the Termination Date.
Peak Calculation Periods in Clause 1 of Schedule 5 (page 105)	Change the definition from: Each Peak Calculation Period on each Business Day in the Term. to: Each successive period corresponding to a trading interval (as defined in the National Rules) occurring between 0700 hours Eastern Standard Time (EST) and 2200 hours (EST) (both inclusive) on a Business Day <sup>2</sup> .
Note on Market Disruption Event in Clause 1 of Schedules 3 to 6 (pages 91, 100, 105, 110).  (new term)	Add Market Disruption Event as follows:  For the purpose of this Transaction, the change to the National Rules as a result of the National Electricity Market (Five Minute Settlement) Rule 2017 No. 15 is not a Market Disruption Event <sup>3</sup> .
Clause 2.3 of Schedule 3 (page 93)	Amend the formula in clause 2.3 from: $CNSL_{Avg} = \frac{\sum NSL_{DP}}{2 \times n_{HP}}$ to: $CNSL_{Avg} = \frac{\sum NSL_{DP}}{n_{CP}}$ And change clause 2.3(c) by deleting:  $n_{HP}$ is the number of hours from (and including) the first hour of the Term, up to (and including) the last hour on the earlier of:  (i) the last day of that billing period; and  (ii) the Termination Date  and inserting:  $n_{CP}$ is the number of Calculation Periods from (and including) the first Calculation Period of the Term, up to (and including) the last Calculation Period on the earlier of:

<sup>2</sup> Note: AFMA does not have specific wording for Peak Calculation Periods

<sup>3</sup> This addition is proposed for consistency with AFMA terms.



	<p>(i) the last day of that billing period; and</p> <p>(ii) the Termination Date</p>
<p>Clause 2.4 of Schedule 3 (page 94)</p>	<p>Amend the formula in clause 2.4 from:</p> $HNSL_{Avg} = \frac{\sum HNSL_{DR}}{2 \times n_{HR}}$ <p>to:</p> $HNSL_{Avg} = \frac{\sum HNSL_{DR}}{n_{CP}}$ <p>Change clause 2.4(c) by deleting</p> <p>:</p> <p><math>n_{HR}</math> is the number of hours from (and including) the first hour on the day on which the Corresponding Trading Interval for that <i>billing period</i> occurs, up to (and including) the last hour of the Previous Corresponding Quarter.</p> <p>and inserting:</p> <p><math>n_{CP}</math> is the number of Calculation Periods from (and including) the Corresponding Trading Interval for that <i>billing period</i>, up to (and including) the last Calculation Period of the Previous Corresponding Quarter.</p>
<p>Transmission Fee Increase Clauses (Clause 5(c) of Schedule 3 and clause 2(c) of Schedules 4 and 5)</p>	<p>(Note the below describes the changes using clause references applicable to Schedule 3).</p> <p>Remove the example in the defined term (C) in 5(c)(i).</p> <p>Update the formula in 5(c)(ii) from:</p> $A = \left[ \frac{C \times 2}{1730} \right]$ <p>to:</p> $D = A \left[ \frac{E}{1730} \right]$ <p>where:</p> <p>(D) D is the allocated amount;</p> <p>(A) A is the amount calculated under paragraph 5(c)(i); and</p> <p>(E) E is the Notional Quantity for the Calculation Period (in MW (calculated by taking the Notional Quantity for the</p>

	Calculation Period in MWhs and multiplying by the number of Calculation Periods in an hour.)
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**Matters to be addressed in submissions**

The Regulator invites comments on the proposed changes set out in Table 1.

The Regulator also invites comments on its intention to revoke the current approvals and to make new approvals which will be embodied in a new Instrument.

**Next steps**

Following consideration of submissions made in response to the proposals in this consultation paper, the Regulator will publish a final investigation report on 30 September 2019 together with a new Instrument that will take effect from the date of publication.