



## **GUIDELINE**

**Dealing with Information Provided under  
Division 3 of Part 3 of  
the *Electricity Supply Industry Act 1995***

**Version 2**

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Office of the Tasmanian Economic Regulator

Level 5, 111 Macquarie Street, Hobart, TAS, 7000

GPO Box 770, Hobart, TAS, 7001

Phone: (03) 6166 4422

Fax: (03) 6233 5666

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## **Version Of The Guideline**

A version number and the effective date will identify every version of this Guideline.

This version (No. 2) of this Guideline becomes effective on 1 July 2014.

## **Purpose Of The Guideline**

On 31 July 2005, the Treasurer issued a Notice under section 36 of the *Electricity Supply Industry Act 1995* (ESI Act), detailing the principles that Hydro Tasmania must follow in relation to the operation of Basslink.

The Notice states that the functions of the Regulator under Division 3 of Part 3 of the ESI Act (the Relevant Division) are to monitor and enforce the compliance of Hydro Tasmania with section 37 of the ESI Act.

The Notice also requires the Regulator to establish guidelines for dealing with the information provided to the Regulator under the Relevant Division and any relevant Compliance Plan of Hydro Tasmania. The guidelines are to indicate which items of information must be treated as confidential in accordance with section 16 of the ESI Act and which information may be published.

The Regulator establishes this Guideline to meet its obligations under the Notice.

## Information Received By The Regulator

The ESI Act requires Hydro Tasmania to have its Compliance Plan audited by a person approved by the Regulator, and to provide a copy of the audit report to the Regulator.

Information provided to the Regulator under the Relevant Division and any relevant Compliance Plan of Hydro Tasmania is primarily contained in the audit report. The audit report may contain confidential information.

The Regulator may also obtain information in the course of fulfilling its role of monitoring and enforcing the compliance of Hydro Tasmania with section 37 of the ESI Act.

## Information To Be Treated As Confidential

Section 16 of the ESI Act states that:

*(1) The Regulator must preserve the confidentiality of information that –*

*(a) could affect the competitive position of an electricity entity or other person; or*

*(b) is commercially sensitive for some other reason.*

*(2) Information classified by the Regulator as confidential is not liable to disclosure under the Right to Information Act 2009.*

*(3) A classification of information by the Regulator as confidential (or not confidential) is not reviewable.*

The Regulator will preserve information that falls within the categories of confidential information as set out in section 16(1) of the ESI Act.

The Regulator will not publish or release any confidential information except as required by law.

## Information That May Be Published

The Notice requires that the Regulator should establish processes which are transparent and accessible.

Consistent with this requirement, the Regulator intends to publish the outcome of the audit but will not disclose any confidential information contained in the audit report.

Where it is appropriate, the Regulator may also publish other non-confidential information obtained in the course of fulfilling its role of monitoring and enforcing the compliance of Hydro Tasmania with section 37 of the ESI Act.

## **Procedure Regarding Confidential Information**

Before publishing and releasing any information provided to it, the Regulator shall request the provider of the information (information provider) to identify any information which it considers to be confidential information.

The information provider must respond in writing within 14 days if it wishes to claim confidentiality concerning all, or part of, the information in question.

The Regulator may publish or release the information in question if the information provider does not respond within 14 days, unless the Regulator considers that this information is confidential in accordance with s16(1) of the ESI Act.

The information provider must clearly identify in writing any information that is subject to a claim of confidentiality.

The information provider must support any claim of confidentiality with reasons. A simple assertion of confidentiality, without explanation of the potential impact on competitive position or of the otherwise commercially sensitive nature of the information, will not suffice.

The Regulator shall assess any claim of confidentiality in accordance with s16(1) of the ESI Act.

If the Regulator does not accept a claim of confidentiality, the Regulator shall advise the information provider in writing of that decision and allow the information provider 7 days to provide further information to support its claim.

After considering any further information that is provided by the information provider within 7 days of the advice, the Regulator shall make its determination.

In accordance with the ESI Act, the Regulator's determination of whether or not the information in question is confidential is not reviewable.

The Regulator shall not publish or release any information determined to be confidential.

The Regulator shall protect information that is subject to a claim of confidentiality during the consideration of the claim.