



**Consultation Paper on proposed amendment to the
2016 Standing Offer Price Determination**

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1 EXECUTIVE SUMMARY

Amendments have been proposed to the *Aurora Energy Pty Ltd – 2016 Standing Offer Determination* (the Determination) to correct an error in the Determination.

The amendments, if approved, will align the Determination with the situation that currently exists whereby Aurora Energy may impose interest, on a daily basis and after taking into account payments made after the due date, on overdue accounts from the day the account is overdue.

The Regulator is seeking comments on the proposed amendments.

2 BACKGROUND

Section 40 of the *Electricity Supply Industry Act 1995* (ESI Act) states that Aurora Energy must not require payment of a charge unless the charge is a standing offer price consistent with, among other things, “a determination of the Regulator”.

On 5 May 2016 the Regulator made its 2016 Standing Offer Price Determination (the Determination) which specifies that interest charges may be imposed on accounts not paid in full by the fifth day past the due date.

On 24 May 2016 Aurora Energy advised the Regulator that it currently imposes interest on overdue accounts from the due date and requested that the Determination be amended to reflect its current practice.

This paper presents the case for amending the Determination to enable Aurora Energy to impose interest charges, from the due date, on accounts not paid in full from the due date.

3 LEGAL FRAMEWORK – AMENDING A DETERMINATION AND PROCESS FOR AMENDMENT

3.1 Circumstances under which a determination may be amended

Sections 40AA(3), (5) and (7) of the ESI Act enable the Regulator to amend a determination provided the amendment complies with any relevant regulations.

Regulation 17 of the *Electricity Supply Industry (Pricing and Related Matters) Regulations 2013* (the Regulations) specifies the circumstances under which the Regulator may amend or revoke a determination:

(1) The Regulator may amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination if, in the opinion of the Regulator, the regulated offer retailer to which the determination relates is materially adversely affected as a result of the making, amendment or revocation of a transmission determination or a distribution determination.

(2) The Regulator may amend or revoke a price-regulated retail service price determination under section 40AA(3) of the Act if the Regulator determines –

(a) that the determination was made on the basis of information, provided by the regulated offer retailer to which the determination relates, that was false or misleading in a material particular; or

(b) that there is a material error in the determination; or

(c) that –

(i) the regulated offer retailer to which the determination relates is materially adversely affected by the determination as a result of an event which is beyond the retailer's reasonable control and was not taken into account in the terms of the determination; and

(ii) the benefits of amending or revoking the determination would outweigh any detriment, to the regulated offer retailer to which the determination relates, or any customer of such a retailer, that might result from the amendment or revocation of the determination.

(3) An amendment or revocation of a price-regulated retail service price determination takes effect on the date specified in the amendment or revocation.

(4) Regulation 14 applies in relation to an amendment or revocation under section 40AA(3) of the Act of a price-regulated retail service price determination as if the amendment or revocation were a price-regulated retail service price determination.

3.2 Process for amending a determination

Regulation 18 of the Regulations specifies the process the Regulator must adopt when proposing to amend or revoke a determination:

(1) Before amending or revoking under section 40AA(3) of the Act a price-regulated retail service price determination, the Regulator is to invite submissions in respect of whether the determination ought to be amended or revoked.

(2) The invitation referred to in subregulation (1) is to –

(a) be in writing; and

(b) specify a reasonable period within which the submissions may be made.

(3) The Regulator is to –

(a) give a copy of the invitation to –

(i) the Minister; and

(ii) the regulated offer retailer to which relates the price-regulated retail service price determination that the Regulator is considering amending or revoking; and

(b) publish a copy of the invitation in such daily newspapers, or in such other manner, as the Regulator considers appropriate.

(4) The Regulator is only to amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination –

(a) after the expiry of the period within which submissions may, under the invitation referred to in subregulation (1), be made in relation to the determination; and

(b) after considering any such submissions received.

(5) Subject to these regulations, for the purpose of determining whether or not to amend or revoke a price-regulated retail service price determination under section 40AA(3) of the Act, the Regulator may do any or all of the following:

(a) consult with any person;

(b) hold seminars;

(c) hold hearings;

(d) do anything the Regulator considers necessary or convenient.

(6) In determining whether or not to amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination, the Regulator is not bound by the rules of evidence but may inform itself in any matter in any manner the Regulator considers appropriate.

(7) If the Regulator decides to hold a hearing for the purpose of determining whether or not to amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination, regulation 50 applies as if the hearing were a hearing in respect of a pricing investigation.

(8) Regulations 51 and 52 apply in relation to the determining by the Regulator of whether or not to amend or revoke under section 40AA(3) of the Act a price-regulated retail service price determination, as if the Regulator were conducting a pricing investigation.

4 THE PROPOSED AMENDMENT

4.1 Aurora Energy's justification for seeking an amendment to the Determination

As specified in Section 2 of this Paper, the Determination specifies that interest charges may be imposed on accounts not paid in full by the fifth day past the due date.

Aurora Energy currently imposes interest charges on overdue accounts from the due date and has, therefore, requested the Regulator amend the Determination to enable it to continue its current practice.

The proposed amendment aims to correct an error in the Determination and therefore allow interest charges to continue to be applied on the same basis as currently occurs.

In its request for the Determination to be amended, Aurora Energy states that, as there has been no change in how it applies interest charges and no proposal to change how applies interest charges, the change in the 2016 Standing Offer Determination appears to be an error.

Aurora Energy also argues that interest on overdue accounts provides customers with an incentive to pay their accounts by the due date and that it will face significant costs in complying with the current 2016 Standing Offer Determination both in terms of system changes and foregone interest revenue.

In discussions with Aurora Energy following the receipt of its request to amend the Determination, the Regulator also identified that the formula currently specified in the Determination does not reflect Aurora Energy's current practices whereby interest is imposed on overdue accounts on a daily basis and payments made after the due date are taken into account when calculating interest.

4.2 Regulator's conclusion

Based the information provided by Aurora Energy in its request for an amendment to the Determination, the Regulator considers that the requirements of Regulation 17(2)(b) have been met in that there is a material error in the 2016 Standing Offer Price Determination. The Regulator has therefore concluded that the conditions for proposing an amendment to the Determination have been met.

5 AMENDING THE DETERMINATION

5.1 Regulator’s proposal for amending the Determination

As discussed in Section 4 of this Paper, the Regulator proposes amending the Determination.

Regulation 18 of the Pricing and Related Matters Regulations, as outlined in Section 3.2 of this Paper, specifies the process the Regulator must follow when amending a determination.

The Regulator proposes editing the text and formula in “Table 5: Other Charges” in the Determination as follows:

Table 5: Other Charges

Charge	Amount/Calculation	Description
Late payment fee	\$5	Late payment fee for accounts not paid in full by the fifth day past the due date.
Interest on overdue accounts	$\frac{(N/365) \times I \times O}{D}$ $D = I/365$	<p>Interest is calculated <u>daily</u> on accounts not paid in full by the fifth day past the due date where:</p> <p>N = the number of days the account is overdue.</p> <p><u>O = the overdue balance</u></p> <p><u>D = daily rate</u></p> <p>I = the reference rate + 6%</p> <p>O = the overdue amount.</p>

The Regulator seeks comments on its proposal to amend the text and formula in “Table 5: Other Charges” in the Determination to align with current practices to:

- enable Aurora Energy to impose interest on overdue accounts from the due date; and
- to clarify that:
 - interest is imposed on a daily basis; and
 - payments made after the due date are taken into account when calculating interest on overdue accounts.

6 WHAT IS THE EXPECTED IMPACT ON PRICES?

Aurora Energy's customers have faced interest charges on overdue accounts for many years and the proposal to amend the Determination reinstates Aurora Energy's ability to continue to impose interest charges in the same manner as it does currently.

There will be no impact on standing offer prices to be approved by the Regulator in June 2016 which are to apply from 1 July 2016.

7 RESPONDING TO THE REGULATOR'S PROPOSALS

The Regulator invites written comments on the proposals outlined in this Paper.

Submissions will be considered prior to the finalisation of the proposed Determination and must be received by the close of business on Friday 24 June 2016.

It is normal practice for all submissions to be published on the Regulator's 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 kept 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.

If you would like further information on the treatment of confidential submissions, please refer to the Regulator's *Policy on the treatment of confidential submissions* (Version 3, July 2014) which is available on the Regulator's website.

Submissions by email are preferred to assist in publishing submissions on the website.

Submissions and enquiries may be made to:

office@economicregulator.tas.gov.au

or to

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A copy of the proposed Determination and this Paper may also be found on the Regulator's website: www.economicregulator.tas.gov.au