



**STATEMENT OF REGULATORY INTENT
WHOLESALE CONTRACT REGULATION**

Version 2.0

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TABLE OF CONTENTS

| | |
|--|-----------|
| GLOSSARY | ii |
| 1 INTRODUCTION | 1 |
| 1.1 PURPOSE | 1 |
| 1.2 STRUCTURE | 1 |
| 1.3 COMMENCEMENT | 1 |
| 2 FAILURE TO CORRECTLY APPLY APPROVED METHODOLOGY ... | 3 |
| 2.1 LEGISLATIVE OBLIGATIONS | 3 |
| 2.2 PROCESS WITH REGARDS TO SUSPECTED FAILURE TO CORRECTLY APPLY THE APPROVED PRICING METHODOLOGY | 3 |
| 2.3 AUTHORISED RETAILER REQUESTS REGULATOR TO FIX PRICES | 4 |
| 3 SUPPLY DISRUPTION EVENT | 7 |
| 3.1 LEGISLATIVE OBLIGATIONS | 7 |
| 3.2 HAS A SUPPLY DISRUPTION EVENT OCCURRED? | 7 |
| 3.3 RESPONSE TO A SUPPLY DISRUPTION EVENT | 7 |
| 4 UPDATING INPUTS | 9 |
| 4.1 BACKGROUND | 9 |
| 4.2 INPUT REVIEW AND UPDATE PROCESS | 9 |

GLOSSARY

“**Act**” means the *Electricity Supply Industry Act 1995*.

“**Allocation Date**” has the same meaning as in the **Wholesale Contract Regulatory Instrument**.

“**Authorised Retailer**” has the same meaning as in the **Wholesale Contract Regulatory Instrument**.

“**Audited wholesale pricing model**” means the model used to calculate wholesale contract prices that **Hydro Tasmania** provided to the **Regulator** on 20 December 2013 and as revised from time to time.

“**Compliance Enforcement Policy**” means the *Compliance Enforcement Policy, Version 2, July 2015* issued by the **Regulator** and as revised from time to time.

“**Construction Quarter**” has the same meaning as in the **Wholesale Contract Regulatory Instrument**.

“**Hydro Tasmania**” means the Hydro-Electric Corporation (ARBN 072 377 158).

“**Regulations**” mean the *Electricity Supply Industry (Pricing and Related Matters) Regulations 2013*.

“**Regulator**” means the Regulator established under the **Act**.

“**Statement**” means this Statement of Regulatory Intent.

“**Weekly offer process**” has the same meaning as in the **Wholesale Contract Regulatory Instrument**.

“**Wholesale Contract Regulatory Instrument**” means the instrument that is the approval made by the **Regulator** (as amended from time to time), in accordance with section 43G of the **Act**, having taken into account the principles set out in section 43H of the **Act**.

1 INTRODUCTION

1.1 Purpose

The purpose of this **Statement** is to describe the processes the **Regulator** will undertake in administering the wholesale contract regulatory framework.

More information on the wholesale contract regulatory framework is available on the **Regulator's** website: www.economicregulator.tas.gov.au.

1.2 Structure

This **Statement** is structured as follows:

- Chapter 2 sets out the **Regulator's** proposed criteria for deciding that **Hydro Tasmania** has failed to comply with its legislative obligations with respect to the calculation of wholesale contract prices. The Chapter also details the **Regulator's** proposed process for fixing prices in these circumstances;
- Chapter 3 sets out the **Regulator's** proposed criteria for deciding that a supply disruption event has occurred. The Chapter also outlines the **Regulator's** proposed process for considering whether to prices if such an event occurs; and
- Chapter 4 discusses the proposed process for updating the inputs set out in Schedule 1 of the **Wholesale Contract Regulatory Instrument**.

1.3 Commencement

This **Statement** (Version 2.0) takes effect on 1 January 2017.

2 FAILURE TO CORRECTLY APPLY APPROVED METHODOLOGY

This Chapter discusses the circumstances in which the **Regulator** may fix regulated wholesale contract prices if the **Regulator** is satisfied that **Hydro Tasmania** has failed to correctly apply the approved methodology in calculating regulated wholesale contract prices.

2.1 Legislative obligations

Section 43M(1) of the **Act** provides for the **Regulator** to approve fixing prices for regulated wholesale contracts if the **Regulator** is satisfied that there has been a “significant, deliberate or repeated failure” by **Hydro Tasmania** to correctly apply the approved pricing methodology.

Section 43M(1) also requires the **Regulator** to advise **Hydro Tasmania** and each **Authorised Retailer** that retails electricity in Tasmania, that the **Regulator** is approving fixing the prices of the wholesale regulated contracts that **Hydro Tasmania** is required to offer **Authorised Retailers**.

Where an approval to fix prices is made under section 43M(1), section 43N(1) enables the **Regulator** to fix prices and section 43N(2) requires **Regulator** to fix prices using the approved pricing methodology.

2.2 Process with regards to suspected failure to correctly apply the approved pricing methodology

The terms “significant, deliberate or repeated” are not defined in the **Act** or in the **Regulations**. For the purposes of this **Statement**, the **Regulator** will define/interpret each of the terms as follows.

- (1) Significant - the prices calculated by **Hydro Tasmania** for regulated contracts differ by five per cent or more from the prices calculated by the **Regulator** using the **Audited wholesale pricing model**.
- (2) Deliberate - the **Regulator** considers, based on information it has obtained, that **Hydro Tasmania** has intentionally used a methodology inconsistent with the **Wholesale Contract Regulatory Instrument** to calculate regulated wholesale prices.
- (3) Repeated - the prices calculated by **Hydro Tasmania** for regulated contracts differ by greater than \$0.01 from the prices calculated by the **Regulator** using the **Audited wholesale pricing model**:
 - on two or more occasions during any 30 calendar day period on a rolling basis; or

- on more than six occasions during any 365 calendar day period on a rolling basis.
- Should any of these situations arise, the **Regulator** will initially seek an explanation from **Hydro Tasmania**. If **Hydro Tasmania's** response adequately explains and justifies the variation and the problem is rectified in accordance with the timeframe specified by the **Regulator**, no further action will be undertaken.
- If the issue is not resolved to the **Regulator's** satisfaction, the **Regulator** may, approve the stepping in and fixing of prices, under the **Wholesale Contract Regulatory Instrument**.
- If the **Regulator** approves the stepping in and fixing of prices the **Regulator** will notify both **Hydro Tasmania** and each **Authorised Retailer** of its approval to fix prices.
- The **Regulator** will calculate prices, from the first **Allocation Date** after notifying **Hydro Tasmania** and **Authorised Retailers** of its approval to fix prices, for each regulated wholesale contract type.
- The **Regulator** will fix prices by carrying out the relevant calculations using the copy of the **Audited wholesale pricing model Hydro Tasmania** has provided to the **Regulator**. **Hydro Tasmania** must provide to the **Regulator** any data required to run the model.
- **Hydro Tasmania** will be required to publish the prices determined by the **Regulator** on its website on each **Allocation Date** and **Hydro Tasmania** will be required to offer regulated contracts at these prices.
- The **Regulator** will then undertake an investigation to determine the reasons for the non-compliance.
- The **Regulator** will notify **Hydro Tasmania** and each **Authorised Retailer** of the outcomes of its investigation and direct **Hydro Tasmania** to implement the recommendations from the investigation.
- Once the **Regulator** is satisfied that **Hydro Tasmania** has implemented the recommendations from the investigation, the **Regulator** will direct **Hydro Tasmania** to resume responsibility for calculating prices and will inform each **Authorised Retailer** when this will be effective from.

2.3 Authorised Retailer requests Regulator to fix prices

Sub-regulation 26(1) of the **Regulations** allows an **Authorised Retailer** to apply to the **Regulator** to make an approval to fix prices under section 43M(1) of the **Act**. Prior to making an approval under section 43M(1) of the **Act**, sub-regulation 26(2)(b) requires the **Regulator** to conduct a compliance investigation.

If the **Regulator** decides, after considering a request from a retailer under sub-regulation 26(1), not to carry out an a compliance investigation the **Regulator** is required to follow the requirements set out in sub-regulation 26(3).

If the **Regulator** decides, after considering a request from a retailer under sub-regulation 26(1), to carry out a compliance investigation the **Regulator** is required to follow the investigation, notification and reporting requirements set out in regulations 26, 27, 28 and 29.

3 SUPPLY DISRUPTION EVENT

This Chapter discusses the **Regulator's** approach to determining whether a supply disruption event has occurred.

This Chapter also discusses the process the **Regulator** will follow if, in the **Regulator's** opinion, a supply disruption event has occurred.

3.1 Legislative obligations

Section 43M(2) of the **Act** specifies that the **Regulator** may approve the **Regulator** stepping in and fixing prices if the **Regulator** is of the opinion that a 'supply disruption event' has occurred. Prior to approving the fixing of prices the **Regulator** must consult with the Treasurer.

Section 43M(3) of the **Act** defines a supply disruption event as:

...an event (other than a drought) that, in the opinion of the Regulator, is likely to cause a prolonged interruption to a substantial quantity of the electricity that would otherwise be supplied under normal circumstances by Hydro.

Sections 43N(3) and (4) provide that, where the **Regulator** approves the fixing of prices in response to a supply disruption event, the **Regulator** may use an alternative pricing method to calculate the regulated wholesale contract prices. The use of an alternative pricing methodology may be appropriate as a supply disruption event may render the approved pricing methodology invalid.

3.2 Has a supply disruption event occurred?

Whilst a supply disruption event is defined in section 43M(3) of the **Act**, the **Regulator** is required to decide whether the event has caused a *prolonged* interruption to a *substantial* quantity of the electricity *normally* supplied by **Hydro Tasmania**.

The **Regulator** will determine if a supply disruption event has occurred after:

- consulting with **Hydro Tasmania** and each **Authorised Retailer** on the nature of the event and the impact of the event on each affected entity; and
- considering any matters that the **Regulator** deems relevant.

3.3 Response to a supply disruption event

If, in the **Regulator's** opinion, a supply disruption event has occurred the **Regulator** will notify **Hydro Tasmania** and **Authorised Retailers** that, in the **Regulator's** opinion, a supply disruption event has occurred.

The current **Weekly offer process** is to continue unless the **Regulator** advises otherwise. However, consistent with clause 22 of the **Wholesale Contract Regulatory Instrument**, **Hydro Tasmania** may set both the energy and capacity

traffic lights for all quarters to red pending the outcome of the **Regulator's** decision on the appropriate response to the supply disruption event.

In deciding on the most appropriate course of action to take in response to a supply disruption event the **Regulator** will consult with the Treasurer, **Hydro Tasmania** and each **Authorised Retailer** seeking their views on:

- the nature of the event and its impact on the market;
- whether a different pricing methodology is more appropriate; and
- if a different methodology is required to calculate regulated wholesale prices, the time required to develop and implement a different methodology.

The **Regulator** will endeavour to ensure that the **Regulator's** response to the supply disruption event:

- (a) is transparent and provides regulatory certainty;
- (b) has benefits to the current Wholesale Regulatory Framework which outweighs the costs of changing the Framework; and
- (c) does not have a negative impact on the efficiency of the Tasmanian Wholesale Electricity derivatives market.

The **Regulator** will, as soon as possible after the **Regulator** forms the opinion that a supply disruption event has occurred, notify in accordance with section 43M(2) of the **Act, Hydro Tasmania** and each **Authorised Retailer**:

- that the **Regulator** has approved the fixing of prices; and
- the methodology the **Regulator** will use to calculate the regulated wholesale contract prices; or
- that the **Regulator** has decided to take no action.

If the **Regulator** does approve the fixing of prices, at an appropriate time the **Regulator** will revoke its approval to fix prices and direct **Hydro Tasmania** to resume its regulated wholesale contracting activities.

4 UPDATING INPUTS

4.1 Background

The **Regulator** is responsible for determining the values for the inputs in Schedule 1 of the **Wholesale Contract Regulatory Instrument** well as the overall administration of the **Wholesale Contract Regulatory Instrument**.

4.2 Input review and update process

To provide market participants with as much transparency and certainty as is practicable, the **Regulator** will review Schedule 1 inputs in accordance with the following schedule:

| Schedule 1 - Inputs set by the Regulator | Review Frequency |
|---|--------------------------|
| Table 1 Off-Peak Cap Values | Annual |
| Table 2 Absolute Minimum Capacity Offer Volume | Annual |
| Table 3 Supplementary Offer Volumes, Headroom Buffers and Reserved Percentage | Annual |
| Table 4 Marginal Loss Factors | Annual |
| Table 5 New Committed Wind Generation | Annual ^{Note 1} |
| Table 6 Calculation of Tasmanian Cap Values | |
| Costing Quarter | Annual |
| Economic Life | Annual |
| Forecast Inflation Rate | Annual |
| Nominal Post Tax Debt Cost | Annual |
| Pre-Tax Real WACC | Annual |
| Real Annual Operating Cost | Annual |
| Real Total Capital Cost | Annual |
| Construction Quarter | Annual ^{Note 1} |
| Table 7 Contract premiums | Annual |

Note:

1. Data may be updated more frequently if AEMO publishes updated data.

Where possible, the **Regulator** will link the input values to verifiable, independent, third party data.

Input values reviewed on an annual basis will be updated in July each year and apply for the first **Allocation Date** after the release of the Australian Energy Market Operator's (AEMO) annual National Electricity Forecasting Report.

Input values based on AEMO data will be updated for the first **Allocation Date** after the publication of the data, including any updated data, on AEMO's website.

Input values reviewed on a quarterly basis will be updated for the first **Allocation Date** after the data is published on the relevant third parties' website.