



Statement of Reasons

on

Statement of Regulatory Intent Wholesale Contract Regulation

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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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GLOSSARY

“**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.

“**Economic Regulator**” means the Tasmanian Economic Regulator established under the *Economic Regulator Act 2009*.

“**Guideline**” means the *Electricity Wholesale Contract Guideline*.

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

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

“**Wholesale Contract Regulatory Instrument**” means the instrument that specifies the regulated contracts **Hydro Tasmania** must offer to **Authorised Retailers**. The instrument is:

- (i) the approval made by the Minister for Finance on 29 July 2013 (as amended from time to time), in accordance with sections 43G and 43O of the *Electricity Supply Industry Act 1995* and Regulation 20 of the *Electricity Supply Industry (Pricing and Related Matters) Regulations 2013*, having taken into account the principles set out in section 43H of the *Electricity Supply Industry Act 1995*; or
- (ii) the approval made by the Regulator (as amended from time to time), in accordance with section 43G of the *Electricity Supply Industry Act 1995*, having taken into account the principles set out in section 43H of the *Electricity Supply Industry Act 1995*.

1 INTRODUCTION

1.1 Purpose

This Statement of Reasons addresses the issues raised in submissions received on the draft Statement of Regulatory Intent (**Statement**). This Statement of Reasons is intended to be read in conjunction with the Draft Statement of Regulatory Intent Wholesale Contract Regulation released on 7 March 2014 and the accompanying Consultation Paper.

Chapter 2 provides a summary of the amendments to be made to the draft **Statement** as a result of the **Economic Regulator's** consideration of the issues raised in submissions.

Chapter 3 outlines, in detail, each of the issues raised during the consultation process together with the **Economic Regulator's** response to, and decision on, each issue.

1.2 Background

Under the electricity reform program implemented during 2013, the **Economic Regulator** was given a number of new roles and responsibilities. One of those new roles is the administration of the framework under which **Hydro Tasmania** is required to offer regulated electricity derivative contracts to authorised retailers that are retailing electricity in Tasmania.

Under this framework, the **Economic Regulator** issued a **Guideline** in December 2013 that outlined **Hydro Tasmania's** responsibilities in relation to regulated wholesale market contracting and also set out the weekly regulated contract offer process. This **Guideline** was also intended to be supported by other regulatory arrangements administered by the **Economic Regulator**.

Whilst the **Guideline** focuses on **Hydro Tasmania's** responsibilities, during consultation on the **Guideline**, stakeholders supported the **Economic Regulator** providing greater clarity with respect to some of its specific responsibilities under the framework. These include how and when the **Economic Regulator** may step in and fix regulated contract offer prices and the process it may undertake in updating inputs listed in Schedule 1 of the **Wholesale Contract Regulatory Instrument**. Given this, in the statement of reasons that accompanied the final **Guideline**, the **Economic Regulator** committed to providing a **Statement** to clarify its intentions with respect to these issues.

In this regard, a draft **Statement** and consultation paper were released for public consultation on 7 March 2014 with submissions closing on 28 March 2014.

The draft **Statement** outlined the proposed conditions and process the **Economic Regulator** may follow to step in and fix prices in the event that:

- **Hydro Tasmania** failed to correctly apply the approved methodology when calculating prices; or
- a supply disruption event occurred.

The draft **Statement** also outlined the proposed process for the **Economic Regulator** to follow in updating the inputs listed in Schedule 1 of the **Wholesale Contract Regulatory Instrument**.

Hydro Tasmania lodged the only submission on the draft **Statement**, which has been published on the **Economic Regulator's** website at: www.economicregulator.tas.gov.au.

1.3 Next Steps

The **Economic Regulator** has finalised the **Statement** after considering the issues raised in relation to the draft **Statement** and has published it on its website.

2 SUMMARY OF AMENDMENTS

The following table summarises the amendments to be made to the draft **Statement** in response to the issues raised in the submissions.

Draft Statement section reference	Amendments to the draft Statement
2.2	In the title remove the word “definition” and replace with “interpretation”
2.2	In the first paragraph remove the word “defining” and replace with “interpreting”
2.2	Under point 3 remove “on more than two occasions” and replace with “on two or more occasions”
3.2	Insert “(including seasonality impacts)” after the word “disruption” in the first dot point

3 PUBLIC SUBMISSIONS: ISSUES, RESPONSES AND DECISIONS

This chapter outlines the issues raised in the sole submission on the draft **Statement** followed by the **Economic Regulator’s** response and decision on each issue. For ease of reference, the requests for comments in the Consultation Paper on specific aspects of the draft **Statement** are included under the relevant sections.

3.1 Failure to correctly apply approved Methodology

The Regulator invited submissions on the following matters in this section:

- the proposed definitions of ‘significant’, ‘deliberate’ and ‘repeated’ in determining whether the **Economic Regulator** should step in a fix prices;
- the proposed process in Section 2.3 of the **Statement** that the **Economic Regulator** would follow in forming a view on stepping in and fixing prices; and
- how the **Economic Regulator** proposes to set prices

Hydro Tasmania’s submission supported the proposed approaches in this section of the **Statement**.

Economic Regulator’s response

The **Economic Regulator** reviewed its proposal to define the terms mentioned above and considered that legally it is not able to technically provide a definition of terms. However, the **Economic Regulator** considers that it has the ability to provide an interpretation of these terms for the purpose of the **Statement** in deciding on the specific conditions of when it may step in a fix prices. Given this, the **Economic Regulator** has adjusted the **Statement** by removing the words defining/definition with interpreting/interpretation.

The **Economic Regulator** also notes that it made an inadvertent error in its draft **Statement** with regards to this section. With respect to the interpretation of “Repeated” the **Economic Regulator** intended referring to “on *two or more* occasions during any 30 day period on a rolling basis” rather than “*more than two* occasions during any 30 day period on a rolling basis”. This was reflected in the Regulator’s description of “Repeated” on page 6 of the Consultation Paper where it noted “For example, the **Economic Regulator** considers a condition of *twice* in a 30 day period, ensures that **authorised retailers** still have two weeks within a month to purchase contracts at the regulated price”.

Thus the **Economic Regulator** has therefore amended the final **Statement** to reflect these changes. Aside from these changes, the **Economic Regulator** has retained all other elements of this section of the **Statement**.

3.2 Supply disruption event

The **Economic Regulator** invited submissions on the following matters in this section:

- the **Economic Regulator’s** proposed approach to assessing the impact of a supply disruption event in forming a view on whether a supply disruption event has occurred prior to **the Economic Regulator** stepping in and fixing prices; and
- the proposed process in Section 3.3 of the **Statement** that the **Economic Regulator** intends following in stepping in and fixing prices where a supply disruption event occurs.

In its submission, **Hydro Tasmania** requested two changes to this section of the Statement.

Firstly, **Hydro Tasmania** requested that, in the Regulator’s proposed approach to assessing whether a supply disruption event has occurred, seasonality should be explicitly mentioned. **Hydro Tasmania** notes that with a hydro-electric system, seasonality is a very critical element.

Secondly, **Hydro Tasmania** expressed concern about the timeframe for the **Economic Regulator** to make a decision to step and set prices, particularly if the supply disruption event occurs around the time that Hydro is required to offer contracts. Specifically, **Hydro Tasmania** is concerned that there may be a regulated contract offering required between the time when the supply disruption event occurs and the instruction to set contract prices at \$300 is made. This could lead to **Hydro Tasmania** losing a significant amount of money. **Hydro Tasmania** requested that the **Economic Regulator** explore some way of expediting the consultation process, possibly by seeking some delegated authority from the Treasurer.

Economic Regulator’s conclusion

With respect to **Hydro Tasmania’s** first point, the **Economic Regulator** notes that in its assessment it had intended that it would have considered the impacts of seasonality on total generation capacity at the time of any supply disruption. That said the **Economic Regulator** is supportive of including a more direct reference to seasonality in the **Statement**.

With respect to **Hydro Tasmania’s** second point, the **Economic Regulator** notes that it has a legislative obligation to consult the Treasurer before determining whether a supply disruption event has occurred. The **Economic Regulator** considers that, given the intention of the *Electricity Supply Industry Act 1995* on this matter, it would be inappropriate to seek a directive from the Treasurer not to consult in the event of a supply disruption.

The **Economic Regulator** notes that if a supply disruption were to occur it would act as quickly as possible to ensure a decision is made in a timely fashion. This should minimise the risk of **Hydro Tasmania** needing to sell regulated contracts in line with the **audited wholesale pricing model** during such an event. The

Economic Regulator notes that this may not necessarily address each possibility and **Hydro Tasmania** may be forced to make a sale in some circumstances. However, the **Economic Regulator** considers that it is not practically possible to fully remove this risk within the bounds of the current regulatory framework.

That said if a decision was not made in time, the **Economic Regulator** considers that the impact on **Hydro Tasmania** would be limited because the sum of the minimum and supplementary offers would be the maximum sold thereby capping **Hydro Tasmania's** exposure.

Given this, the **Economic Regulator** has not amended the **Statement** to reflect **Hydro Tasmania's** suggested changes with respect to the timeframe.

3.3 Process for updating inputs

The Regulator invited submissions on the following matters in this section:

- its proposed basis for updating the inputs in Schedule 1 of the **Wholesale Contract Regulatory Instrument**; and
- the proposed process for updating those inputs.

Hydro Tasmania's submissions supported the approach proposed in this section of the **Statement**.

Economic Regulator's conclusion

The **Economic Regulator** has retained all other elements of this section of the **Statement**.