

Australian Capital Territory

Utilities (Electricity Feed-in Code) Determination 2009

Disallowable instrument DI2009–23

made under the

Utilities Act 2000, s 59 (Determined codes) and s 63 (Public access)

1 Name of instrument

This instrument is the *Utilities (Electricity Feed-in Code) Determination 2009*.

2 Commencement

This instrument commences on the day after it is notified.

3 Approval of code

The Commission determines the Electricity Feed-in Code set out in the attachment.

4 Public access to documents

Copies of the Electricity Feed-in Code are available for inspection by members of the public between 9:00 am and 5:00 pm, Monday to Friday, at the Commission's offices at Level 2, 12 Moore Street, Civic ACT, and on the Commission's website (www.icrc.act.gov.au). Copies of these documents can be made at the Commission's offices. Electronic copies are available on request. No charge will apply.

Paul Baxter
Senior Commissioner
Independent Competition and Regulatory Commission

27 February 2009



ICRC

Independent Competition and Regulatory Commission

ELECTRICITY FEED-IN CODE

Determined 27 February 2009

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1. INTRODUCTION

1.1 Industry codes

The Electricity Feed-in Code is an industry code under Part 4 of the *Utilities Act 2000* (the **Utilities Act**) that has been determined by the Independent Competition and Regulatory Commission (**the Commission**).

Section 55(1) of the **Utilities Act** provides that 'an industry code may set out practices, standards and other matters about the provision of a utility service'.

Section 56(1) of the **Utilities Act** states that 'for this Act, an industry code applies to a utility if it applies to the provision of utility services of a kind that the utility is licensed to provide.'

The circumstances under which the Commission may determine an industry code and the processes to be followed are detailed in sections 59 and 60 of the **Utilities Act**.

1.2 Utility to comply with industry codes

The **Utilities Act** provides, in section 25(2)(iii) that a utility licence is subject to the condition that the utility comply with each industry code that applies to the utility.

1.3 Effect of inconsistency of industry codes

Under section 56(3) of the **Utilities Act**, 'an industry code has no effect to the extent of any inconsistency with this Act, a related law or a technical code'.

1.4 Electricity Feed-in Scheme

A scheme (the **Electricity Feed-in Scheme**) for feed-in from renewable energy generators to the electricity network is established under the *Electricity Feed-in (Renewable Energy Premium) Act 2008* (the **Electricity Feed-in Act**).

The **Electricity Feed-in Act** provides in section 6(2) for a range of actions required of electricity distributors, including connecting a renewable generator to the distributor's network (the **distributor actions**) and in section 6(3) for actions required of electricity suppliers (the **supplier actions**). Section 7 of the **Electricity Feed-in Act** provides that the **distributor actions** and the **supplier actions** are utility services.

2. PURPOSE AND APPLICATION OF THIS CODE

2.1 Purpose

The purpose of this Code is to set out practices and standards for the operation of the scheme for feed-in from renewable energy generators to the electricity network established under the **Electricity Feed-in Act**.

2.2 Application

This Code applies to:

- (a) **electricity distributors**
- (b) **electricity suppliers.**

2.3 Other applicable laws

This Code is in addition to, and does not limit, the rights and obligations of **electricity distributors** and **electricity suppliers** under the **Utilities Act**, the **Electricity Feed-in Act** and any other applicable **law**.

3. DICTIONARY

3.1 Dictionary attached

The Dictionary at the end of the Electricity Feed-in Code is part of this Code.

4. DISTRIBUTOR OBLIGATIONS

4.1 Distributor to detail arrangements to supplier

The **electricity distributor** must,

- (a) upon request, provide to an **electricity supplier** a statement of the terms on which it will provide the relevant **distributor actions**. The **Network Use of System Agreement** will apply to the **distributor actions** so far as relevant.
- (b) upon application from an **occupier**, which may be received via the occupier's chosen **electricity supplier** provide the relevant **distributor actions** in accordance with a negotiated contract with the **occupier** either directly or via the **electricity supplier** as agent of the **electricity distributor** for that purpose.

4.2 Distributor to alert supplier and occupier of start dates

The **electricity distributor** must, as part of its response to an application for **distributor actions**, inform the **electricity supplier** and the **electricity supplier** must inform the **occupier** of the date from which the 20-year period for the payment of a premium rate as provided for in section 11 of the **Electricity Feed-in Act** commenced.

4.3 Dispute resolution—supplier disputes

Disputes between **electricity distributors** and **electricity suppliers** in relation to the **Electricity Feed-in Scheme** will be resolved in accordance with the arrangements set out in the **Network Use of System Agreement** in place between the parties.

4.4 Dispute resolution—occupier disputes

Disputes between electricity distributors and occupiers of premises in relation to the **Electricity Feed-in Scheme** will be resolved in accordance with the **Utilities Act** and the **Consumer Protection Code**.

4.5 Reporting to the Commission

The **electricity distributor** is to provide reports to the **Commission** to cover the matters and within the timeframes set out in Schedule 1 to this Code. Arrangements for the commencement of reporting will be notified by the **Commission**.

5. SUPPLIER OBLIGATIONS

5.1 Supplier to detail arrangements to occupiers

The **electricity supplier** must, by a separate negotiated contract or through amendment of an existing contract, provide a statement of the terms on which it will provide the **supplier actions** to an **occupier** from whom an application has been received. Items (a) to (c) are the minimum requirements for inclusion:

- (a) the information that will be provided to **occupiers** when a payment for renewable energy **is** made, including the amount and value of any energy generated from the premises
- (b) the frequency of payments
- (c) the method and circumstances of payment to **occupiers**.

A contract may provide that payments can be by way of an offset against the occupier's electricity account.

5.2 Dispute resolution—distributor disputes

Disputes between **electricity suppliers** and **electricity distributors** in relation to the **Electricity Feed-in Scheme** will be resolved in accordance with the arrangements set out in the **Network Use of System Agreement** in place between the parties.

5.3 Dispute resolution—occupier disputes

Disputes between electricity suppliers and occupiers of premises in relation to the **Electricity Feed-in Scheme** will be resolved in accordance with the **Utilities Act** and the **Consumer Protection Code**.

5.4 Reporting to the Commission

The Supplier is to provide reports to the **Commission** to cover the matters and within the timeframes set out in Schedule 1 to this Code. Arrangements for the commencement of reporting will be notified by the **Commission**.

6. OCCUPIER PROTECTIONS AND OBLIGATIONS

6.1 Applicability of Consumer Protection Code provisions

This Code does not affect the application of the **Consumer Protection Code** in relation to matters other than the **Electricity Feed-in Scheme**. The application of the **Consumer Protection Code** to the **Feed-in Scheme** is as set out in Schedule 2 to this Code.

6.2 Extended definition of 'utility service'

For the purpose of this Code, the definition of 'utility service' in the **Consumer Protection Code** is to be read to include the **distributor actions** and/or **supplier actions**.

6.3 Electricity supply debts and hardship provisions

Despite clause 5.1, an **electricity supplier** must not set terms that would require a payment owing to an **occupier** under the **supplier actions** to be used (without the approval of the **occupier**) to recover an **electricity supply** debt:

- (a) which is the subject of a hardship application under Part 12 of the **Utilities Act**
- (b) contrary to a direction of the ACT Civil and Administrative Tribunal under Part 12 of the **Utilities Act**
or
- (c) contrary to an arrangement for the repayment of an electricity supply debt agreed by the **occupier** and **electricity supplier**

6.4 Requirement for occupier application

The **distributor actions** and **supplier actions** cannot be provided in the absence of an application from an **occupier** of premises for such services. A person taking up occupancy of premises with an installed generation capacity is required to apply to the **electricity supplier** to participate in the **Electricity Feed-In Scheme**.

7. REVIEW OF THIS CODE

The **Commission** will review this Code, in the light of experience with the **Electricity Feed-in Scheme**, within two years of the commencement of the **Electricity Feed-in Act**. The review will include

- (a) the desirability, in the light of experience with the operation of the **Electricity Feed-in Scheme**, of determining scheme-specific minimum service standards
- (b) the continuing appropriateness of all provisions relating to reporting to the **Commission**.

DICTIONARY

- (1) '**Commission**' means the Independent Competition and Regulatory Commission.
- (2) '**Consumer Protection Code**' means the **Consumer Protection Code** approved as an industry code under Part 4 of the **Utilities Act**.
- (3) '**Distributor actions**' are the actions required by an electricity distributor under section 6(2) of the **Electricity Feed-in Act**.
- (4) '**Electricity distributor**' means a person who holds a licence to distribute electricity under Part 3 of the **Utilities Act**.
- (5) '**Electricity Feed-in Act**' means the *Electricity Feed-in (Renewable Energy Premium) Act 2008*.
- (6) '**Electricity Feed-in Scheme**' means the scheme for the feed-in from renewable energy generators to the electricity network that is established under the **Electricity Feed-in Act**.
- (7) '**Electricity supplier**' means a person who holds a licence to supply electricity to premises under Part 3 of the **Utilities Act**.
- (8) '**Electricity supply**' means the supply of electricity from an electricity network to premises for consumption.
- (9) '**Law**' means:
 - (a) an Act
 - (b) a subordinate law
 - (c) any other statutory instrument of a legislative nature
 - (d) the common law.
- (10) '**Network Use of System Agreement**' is the default or negotiated contract in place between an **Electricity distributor** and **Electricity supplier** in accordance with the Electricity Network Use of System Code.
- (11) '**Occupier**' in relation to premises has the same meaning as in the **Electricity Feed-in Act**—'the retail electricity customer for the premises'. It does not have the meaning of 'occupier' in the **Consumer Protection Code**.
- (12) '**Supplier actions**' are the actions required by an **electricity supplier** under section 6(3) of the **Electricity Feed-in Act**.
- (13) '**Utilities Act**' means the *Utilities Act 2000 (ACT)*.

SCHEDULE 1: DISTRIBUTOR AND SUPPLIER OBLIGATIONS TO REPORT TO THE COMMISSION

Relevant utility service provider	Obligation	Timeframe for report
Electricity distributor	Number of connection applications received by suburb	Quarterly
	Number of new connections by suburb	Quarterly
	Total connections by suburb	Quarterly
	Total installed capacity by suburb	Quarterly
	Total metered output by suburb	Quarterly
Electricity supplier	Number of customers receiving feed-in tariff	Quarterly
	Total premium tariff paid out	Quarterly

SCHEDULE 2: APPLICABILITY OF CONSUMER PROTECTION CODE PROVISIONS TO THE FEED-IN SCHEME

Part or clause	Provision	Applicability to Feed-in Scheme
4	Obligations under licence	Applicable (reading 'utility service' to include distributor actions and supplier actions)
5	Conduct of utilities	Applicable
6	Complaints	Applicable
7	Provision of information	Applicable
8	Notice	Applicable
9	Summary of Consumer and Utility Rights	Applicable
10	Special needs	Not applicable
11	Obligation to comply with service standards	Only service standard 3 of Schedule 2 of the Consumer Protection Code applies
12	Charges	Applicable
13	Customer accounts	Only applicable to the extent that information relating to the Feed-in Scheme appears on a customer account
14	Interest and other charges	Not applicable
Part 3.1 (Clauses 15-16 and 18-19)	Matters that must be addressed in standard customer contracts	Not applicable
Part 3.1 (Clauses 17 and 20)	Matters that must be addressed in standard customer contracts	Not applicable
Part 3.2 (Clause 21)	Standard customer contracts	Not applicable
22	Negotiated contract provisions	Applicable
23	Disconnection of supply	Not applicable

Part or clause	Provision	Applicability to Feed-in Scheme
24	Cooling off period	Not applicable
25	Recession under Negotiated Customer Contract	Not applicable
26	Notice where Negotiated Customer Contract ends	Not applicable
27	Security deposit	Not applicable
28	Utility to Make Contract available to customers	Applicable
Part 5 (Clauses 29–30)	Marketing of electricity and gas supply services	Not applicable
31	Contract information	Applicable
32	Informed consent	Not applicable
33	New occupants	Not applicable

SCHEDULE 3: CODE AMENDMENT HISTORY

The Electricity Feed-in Code was first determined on 27 February 2009.

The Code has not been varied since that date.