

Australian Capital Territory

Utilities Exemption 2012 (No 3)

Disallowable Instrument DI2012-267

made under the

Utilities Act 2000, section 22, (Exemption)

EXPLANATORY STATEMENT

Purpose of the Exemption

The Utilities (Electricity Transmission) Regulation 2006 provides that the transmission of electricity through an electricity transmission network that is declared by the Minister to be an electricity transmission network is a utility service for the purposes of the *Utilities Act 2000*. TransGrid has been declared to be an electricity transmission network by the Minister in the Utilities (Electricity Transmission Network) Declaration 2012 (NI2012-619).

The *Utilities Act*, at section 21, provides that a person must not provide a utility service except in accordance with a licence. This exemption will allow TransGrid to operate legally in the short term in the ACT while work continues on the longer term licensing arrangements.

Legislative provisions

The *Utilities Act*, at section 22, provides that the Minister may, by the making of a disallowable instrument, exempt a person from the requirement for a licence in relation to provision of a utility service. The exemption is subject to compliance with any condition stated in the instrument of exemption.

Background

TransGrid, a corporatised entity under the *State Owned Corporations Act 1989* (NSW), is the owner, operator and manager of the New South Wales high voltage electricity transmission network.

The revocation and remaking of the exemption is linked to the Minister for the Environment and Sustainable Development's declaration, under the Utilities (Electricity Transmission Network) Declaration 2012 (No 1), that part of TransGrid's electricity transmission system is an electricity transmission network.

Utilities Exemption 2012 (No 3) revokes DI2009-144 and replaces it with a further exemption. As with the two previous exemptions, the conditions of exemption require TransGrid to:

- plan, maintain and operate networks and connection points in the ACT;

- provide two or more geographically separate connection points to the ACT electricity distribution network;
- continue to allow electricity supply to the ACT distribution network immediately after a “special contingency event” to certain required minimum total capabilities; and
- use its best endeavours to restore electricity supply to the ACT distribution network after a “special contingency event” within the minimum period possible and to a minimum total capacity as set out in the exemption.

“Special contingency event” is a term defined in the National Electricity Rules and includes the unexpected disconnection of generating unit or transmission plant that the Australian Energy Market Operator (AEMO) considers to be reasonably possible.

The exemption also requires compliance with a broad range of ACT regulatory provisions including bushfire safety and network management.

The substantive changes between this instrument of exemption and DI2009-144 are:

- changes to Table 1 of clause 5 (capacity requirements after single credible and special contingency events) which remove requirements before 2015.
- extension of the time for the provision of a second connection point to the ACT distribution network from 1 July 2011 to 1 July 2015.
- changes to the Clause 5 (b) Technical Regulation Criteria requiring TransGrid to comply with the ACT Management of Electricity Network Assets Code and Utilities Emergency Planning Code, which operate under the *Utilities Act 2000*, instead of the *Electricity Supply Act (NSW)* and the *Electricity Supply (Safety and Network Management) Regulation (NSW)*.

This instrument includes clause 6 which provides that the exemption will expire on commencement of any electricity transmission utility service licence granted to TransGrid under section 37 of the *Utilities Act 2000*.