



New South Wales

Electricity Infrastructure Investment Amendment (Access Schemes) Regulation 2022

under the

Electricity Infrastructure Investment Act 2020

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Infrastructure Investment Act 2020*.

MATT KEAN, MP
Minister for Energy

Explanatory note

The objects of this Regulation are—

- (a) to provide for the functions of the consumer trustee and infrastructure planner, and
- (b) to set out the matters a declaration for an access scheme may specify, and
- (c) to modify the *National Electricity Rules* in relation to access schemes.

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1 Name of Regulation

This Regulation is the *Electricity Infrastructure Investment Amendment (Access Schemes) Regulation 2022*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Electricity Infrastructure Investment Regulation 2021

[1] Clause 42A Functions of consumer trustee—the Act, s 60(4)

Omit “subclause (2)” from clause 42A(1). Insert instead “this clause”.

[2] Clause 42A(2)(d)

Insert at the end of clause 42A(2)(c)—

, and

- (d) prepare a report on the competitive tender and the recommendations and give the report to the infrastructure planner.

[3] Clause 42C Functions of infrastructure planner—the Act, s 63(4)(d)

Omit clause 42C(2). Insert instead—

(2) The infrastructure planner for an access scheme must exercise—

- (a) the access scheme functions for the access scheme if the infrastructure planner is appointed to administer the access scheme, or
(b) a particular access scheme function for the access scheme if the infrastructure planner is directed to exercise the function in the declaration for the access scheme.

(3) The *access scheme functions* for an access scheme are as follows—

- (a) to administer the access scheme, including to establish, administer and operate a register for access rights under the access scheme,
(b) for a competitive tender, in relation to the granting or increasing of access rights, not conducted by the consumer trustee—
(i) to make rules about the conduct of the competitive tender, and
(ii) to conduct the competitive tender in accordance with the rules,
(c) to determine the eligibility criteria for the grant or increase of access rights to participants in the access scheme—
(i) in consultation with the consumer trustee, and
(ii) before the competitive tender is conducted,
(d) to determine the terms and conditions for the grant or increase of access rights to participants in the access scheme,
(e) to assess and determine the grant or increase of access rights to participants in the access scheme,
(f) to assess and approve connections to, and disconnections from, an access rights network or access control network under the access scheme, including to give consent in accordance with the following provisions of the *National Electricity Rules*—
(i) clause 5.3.4(a1) and (a2),
(ii) clause 5.3.6(a4) and (a5),
(iii) clause 5.3.9(b1),

Note— See the *National Electricity (New South Wales) Regulation 2022*, Schedule 1, Part 1.

- (g) to assess, calculate, forecast, determine and implement technical matters for the access scheme, including in relation to the following—
(i) network capacity,

- (ii) network constraints,
- (iii) network utilisation,
- (iv) access rights,
- (v) maximum capacities applying during different periods,
- (h) to consider, assess and determine proposals—
 - (i) in relation to the grant or increase of access rights to participants in the access scheme, and
 - (ii) made in accordance with the access scheme for the augmentation of network infrastructure in the renewable energy zone in which the access scheme is located,
- (i) to extend, if applicable, the term of the access scheme,
- (j) to give notices or publish information in relation to the access scheme,
- (k) for a proposed amendment of the declaration for the access scheme—
 - (i) to consider, consult on and assess the proposal, and
 - (ii) to provide advice to the Minister, and
 - (iii) to determine voting procedures.

[4] Clause 55

Omit the clause. Insert instead—

55 Declaration of access scheme—the Act, s 24(5)(f)

- (1) A declaration for an access scheme may specify the following matters in relation to the access scheme—
 - (a) the arrangements for the administration of the access scheme,
 - (b) the classes of the following that may be part of, or subject to, the access scheme—
 - (i) infrastructure, plant or equipment,
 - (ii) owners, controllers or operators of infrastructure, plant or equipment,
 - (c) the eligibility criteria for participating in the access scheme,
 - (d) matters related to the access and connection or disconnection process, including—
 - (i) access and connection to, or disconnection from, an access rights network or access control network under the access scheme, and
 - (ii) the administration of the process for access and connection or disconnection, and
 - (iii) the assessment and approval of changes to a connection or a connected facility to which an access right relates, including disconnection of the facility,
 - (e) matters related to proposals—
 - (i) in relation to the grant or increase of access rights to participants in the access scheme, and
 - (ii) made in accordance with the access scheme for the augmentation of network infrastructure in the renewable energy zone in which the access scheme is located,
 - (f) matters related to technical matters for the access scheme, including in relation to the following—

- (i) network capacity,
- (ii) network constraints,
- (iii) network utilisation,
- (iv) access rights,
- (v) maximum capacities applying during different periods,
- (g) requirements for establishing, administering and operating a register for access rights under the access scheme,
- (h) requirements for giving notices or publishing information in relation to the access scheme,
 - (i) how the access scheme may be extended or terminated,
 - (j) how the declaration may be amended under the Act, section 28(1)(d).
- (2) In this clause—
 - access control network***, under an access scheme, means all or part of a transmission network or distribution network—
 - (a) that is not an access rights network under the access scheme, and
 - (b) to which access is controlled under the access scheme.
 - access rights network***, under an access scheme, means all or part of a transmission network or distribution network identified as an access rights network in the declaration for the access scheme.
 - plant*** has the same meaning as in the *National Electricity Rules* and includes plant that consumes electricity but not generation infrastructure or storage infrastructure.

[5] **Part 11**

Insert after Part 10—

Part 11 Modification of National Electricity Rules

58 Modification of National Electricity Rules—the Act, s 27

- (1) The *National Electricity Rules* are modified as set out in Schedule 3.
- (2) Terms used in Schedule 3 have the same meanings as in the *National Electricity Rules*.

59 Modifications relating to access scheme cease to apply when scheme ceases

The modifications contained in Schedule 3, Part 1 that apply to a person because of an access scheme no longer apply to the person when the access scheme ceases.

Note— The infrastructure planner for the access scheme is required to publish a notice on its website notifying the public when the access scheme ceases.

[6] **Schedule 3**

Insert after Schedule 2—

Schedule 3 Modification of National Electricity Rules

clause 58

Part 1 Modifications relating to access schemes

[1] Clause 3.13.3 Standing data

Insert after clause 3.13.3(b1)—

- (b2) A Scheduled Generator, Semi-Scheduled Generator or Market Participant holding an access right under an access scheme for a generating system must not, when notifying AEMO of the maximum generation of a generating unit—
 - (1) for a generating system comprised of 1 generating unit—specify an amount that is higher than the maximum capacity for the system during any capacity period as specified for the system in the access rights register for the access scheme, or
 - (2) for a generating system comprised of 2 or more generating units—specify an amount that, when aggregated with the amounts notified for all the other generating units comprising the generating system, is higher than the maximum capacity for the system during any capacity period as specified for the system in the access rights register for the access scheme.
- (b3) Paragraph (b2)(2) does not apply to a generating system comprised of 2 or more generating units if—
 - (1) the generating units are aggregated for central dispatch under clause 3.8.3, or
 - (2) the generating system—
 - (i) comprises plant that consumes electricity other than auxiliary load, and
 - (ii) is specified as not being subject to paragraph (b2)(2) by the infrastructure planner for the access scheme—
 - (A) in the access rights register for the access scheme, or
 - (B) in a written notice given to the Scheduled Generator, Semi-Scheduled Generator or Market Participant.

[2] Clause 4.8.9 Power to issue directions and clause 4.8.9 instructions

Insert after clause 4.8.9(j)—

- (k) AEMO is not prevented from issuing a direction or clause 4.8.9 instruction merely because the maximum capacity of a Registered Participant's generating system as specified in an access rights register under an access scheme is less than the amount required to be generated under the direction or instruction.

[3] Clause 5.3.1 Process and procedures

Insert after clause 5.3.1(b1)—

- (b2) Clause 5.3.2(a)–(e) does not apply to a person who proposes to establish a connection for a generating system to an access rights network under an access scheme.

[4] Clause 5.3.4 Application for connection

Insert after clause 5.3.4(a)—

- (a1) A person must not submit an application to connect to an access rights network under an access scheme unless—
 - (1) for the connection of a generating system—the person is registered as the holder of an access right for the generating system in the access rights register for the access scheme, or
 - (2) otherwise—the person has obtained the consent of the infrastructure planner for the access scheme.
- (a2) A person must not submit an application to connect the following to an access control network under an access scheme unless the person has obtained the consent of the infrastructure planner for the access scheme—
 - (1) a transmission network,
 - (2) a distribution network,
 - (3) a generating system.

[5] Clause 5.3.6 Offer to connect

Omit “paragraph (a3)” from clause 5.3.6(a). Insert instead “paragraphs (a3)–(a5)”.

[6] Clause 5.3.6(a4) and (a5)

Insert after clause 5.3.6(a3)—

- (a4) A Network Service Provider must not make an offer to connect a person’s facilities to an access rights network under an access scheme unless—
 - (1) for the connection of a generating system—
 - (i) the person seeking to connect the generating system is registered as the holder of an access right for the generating system in the access rights register for the access scheme, and
 - (ii) the generating system is to be connected to the part of the network to which the access right relates, or
 - (2) otherwise—the Network Service Provider has obtained the consent of the infrastructure planner for the access scheme.
- (a5) A Network Service Provider must not make an offer to connect the following to an access control network under an access scheme unless the Network Service Provider has obtained the consent of the infrastructure planner for the access scheme—
 - (1) a transmission network,
 - (2) a distribution network,
 - (3) a generating system.

[7] Clause 5.3.9 Procedure to be followed by a Generator proposing to alter a generating system

Insert after clause 5.3.9(b)—

- (b1) Before submitting information under paragraph (b), a Generator to which this clause applies must, if the generating system is connected to an access rights network or access control network

under an access scheme, obtain the consent of the infrastructure planner for the access scheme.

[8] Clause 5.5.1 Application

Insert after clause 5.5.1(c)—

- (d) This rule 5.5 does not apply to a dispute about the application of the following provisions—
 - (1) clause 5.3.1(b2),
 - (2) clause 5.3.4(a1) and (a2),
 - (3) clause 5.3.6(a4) and (a5),
 - (4) clause 5.3.9(b1).

[9] Clause 5.9.3 Involuntary disconnection

Insert after clause 5.9.3(a)—

- (a1) An infrastructure planner for an access scheme may direct a Network Service Provider to disconnect a facility from an access rights network under the access scheme if—
 - (1) the access right for the facility is suspended or terminated, and
 - (2) the suspension or termination of the access right is specified in the access rights register for the access scheme.
- (a2) The Network Service Provider must comply with the direction promptly.

[10] Clause 5.9.4A Notification of disconnection

Renumber clause 5.9.4A as clause 5.9.4A(a).

[11] Clause 5.9.4A(b)

Insert after clause 5.9.4A(a)—

- (b) An infrastructure planner must, before giving a direction under clause 5.9.3(a1) to a Network Service Provider, consult with the following on how the disconnection, including the timing of the disconnection, will affect power system security—
 - (1) AEMO,
 - (2) the Network Service Provider,
 - (3) other Network Service Providers that may be affected by the disconnection.

[12] Schedule 5.6 Terms and Conditions of Connection agreements and network operating agreements

Insert after Part A, paragraph (o)—

- (p) if the Connection Applicant is connecting a generating system to an access rights network under an access scheme—
 - (1) details of the access right applicable at the connection point, and
 - (2) a requirement—
 - (i) specifying that, for a capacity period as set out in the access rights register for the access scheme, the

- maximum permitted output of the generating system must not be higher than the maximum capacity specified in the access rights register, and
- (ii) that applies for the duration of the access scheme, and
 - (iii) that does not limit an obligation to comply with a direction or clause 4.8.9 instruction.

[13] Chapter 10 Glossary

Insert in alphabetical order—

access control network, under an access scheme, means all or part of a transmission network or distribution network—

- (a) that is not an access rights network under the access scheme, and
- (b) to which access is controlled under the access scheme.

access right means an access right allocated—

- (a) under an access scheme, and
- (b) in accordance with the declaration for the access scheme.

access rights network, under an access scheme, means all or part of a transmission network or distribution network identified as an access rights network in the declaration for the access scheme.

access rights register, for an access scheme, means the register—

- (a) of access rights under the access scheme, and
- (b) established under the declaration for the access scheme.

access scheme has the same meaning as in the *Electricity Infrastructure Investment Act 2020*.

declaration, for an access scheme, means the declaration made under the *Electricity Infrastructure Investment Act 2020*, section 24 for the access scheme.

infrastructure planner, for an access scheme, means the infrastructure planner appointed under the *Electricity Infrastructure Investment Act 2020* for the renewable energy zone, or part of the renewable energy zone, to which the access scheme relates.

[14] Chapter 10, definition of “Connection Applicant”

Insert after paragraph (b)—

In respect of establishing or modifying a connection to an access rights network under an access scheme, a Connection Applicant includes a person who—

- (a) is, or intends to become, a Registered Participant, and
- (b) holds an access right registered on the access rights register for the access scheme.