

Annex C: Variation of Electricity Distribution Licences

In conjunction with making the Electricity Distribution Code of Practice we are proposing to vary electricity distribution licences pursuant to section 29 of the Electricity Industry Act 2000. As part of this consultation, we are seeking agreement from distributors to vary the licences to reflect the template form of distribution licence published in Annex D.

The proposed variations would result in significant reduction in the number of licence conditions for electricity distribution licensees. This is due to two reasons. Firstly, the removal of conditions which have been superseded by developments in the regulatory framework. There has not been a comprehensive review of electricity distribution licences for some time, resulting in many current terms and conditions being obsolete. Secondly, the removal of some conditions that relate to matters common to all distributors and which may be more appropriately addressed in the Electricity Distribution Code of Practice.

Existing licence condition	Proposal
1 (Definitions and Interpretation)	Consequential changes to defined terms have been made as a result of proposed changes below. Defined terms now found in Part A of the licence.
2 (Grant of Licence)	Clause 2 is now reflected in new clause 3 which reflects the licensee is authorised to distribute electricity on the terms and conditions set out in the licence. The distribution area for each licence is proposed to remain unchanged and will be reflected in Schedule 1.

3.1 (Term)	For record keeping purposes proposed new clause 3.3 identifies the first date the licence was granted. The existing description of variations will be retained in Schedule 2.
3.2 to 3.6 (Revocation)	Revocation is proposed to be addressed in new clause 6. This clause has been updated to reflect changes in the framework. By way of example, clause 3.6 provides for revocation for non-compliance with an enforcement order. The Essential Services Commission Act 2001 was amended on 1 December 2021 which saw the removal of enforcement orders and replacement of that enforcement tool with a number of other enforcement mechanisms. The clause has been updated to reflect that revocation may result from non-compliance with enforcement action taken under amended Part 7 of the ESC Act.
4 (Use of System Agreements)	Proposed new clause 11 provides for the licensee to enter into a use of system agreement with each retailer. However, other matters pertaining to use of system agreements, including process for approval and content are proposed to be addressed in the Electricity Distribution Code of Practice (clause 8), meaning that existing clause 4.1 to 4.10 are proposed to be removed from the licence.
5 (Deemed Distribution Contracts)	This clause provides for matters pertaining to the procedure for obtaining the commission’s approval of deemed distribution contracts and the requirements with which the terms and conditions of a deemed distribution contract must be consistent. These matters are proposed to be addressed in the Electricity Distribution Code of Practice (clause 9), meaning that existing clause 5.1 to 5.3 are proposed to be removed from the licence.
6 (Obligation to offer connection services and supply to a customer)	This clause provides for the obligation to make an offer in relation to connection services to customers. The clause is proposed to be removed on the basis that connection is regulated by chapters 5 and 5A of the National Electricity Rules (with some ancillary matters addressed in the Electricity Distribution Code of Practice).
7 (Obligation to	This clause provides for the obligation to make an offer in relation to connection services to embedded generators. The clause is

offer connection services to embedded generators)	proposed to be removed on the basis that connection is regulated by chapters 5 and 5A of the National Electricity Rules (with some ancillary matters addressed in the Electricity Distribution Code of Practice).
8 (Obligation to offer undergrounding and similar services)	This clause imposes on a distributor to participate in an undergrounding proposal and provides a timeframe for offers to be made in relation to an offer of an undergrounding proposal. This clause is proposed to be removed on the basis that the requirement to make offers for connection, which encompasses those requiring undergrounding, and the timeframe for doing so is regulated by Chapters 5 and 5A of the National Electricity Rules (with some ancillary matters addressed in the Electricity Distribution Code of Practice).
9 (Obligation to offer to provide certain services to other distributors)	This clause imposes an obligation on a distributor to provide certain services (such as power transfer capability services, reactive capacity etc) to other distributors. This clause is proposed to be removed on the basis that the obligation for distributors to provide services to other distributors is not a matter requiring regulation through licence conditions, but the commission welcomes feedback on this point.
10 (Obligation to offer public lighting services)	This clause imposes an obligation on a distributor to make an offer in response to a request for public lighting services. This clause is proposed to be removed, with the commission to undertake a review of the Public Lighting Code in due course. However, the commission welcomes submissions on this point.
11 (Requirement for Offers)	This clause contains requirements for those offers as required by clauses 6 to 10. This clause is proposed to be removed, as a consequence of the proposed removal of related clauses. However, it is noted that the requirement for a distributor to call for tenders on constructions works if it proposes to augment its distribution network in relation to connection services, undergrounding, services to distributors and public lighting services has been retained in clause 5 of the Electricity Distribution Code of Practice.

12 (Provision of other excluded services)	This clause provides for the prices and charges of 'excluded services'. These are defined as having the same meaning as in the 'Price Determination', being the Price Determination of 2001-2005 (or subsequent price determination). This clause relates to a time when the commission undertook price regulation and there were 'excluded services' (those services not captured by the price determination) so provision had to be made for that price regulation. It is proposed to remove this clause on the basis it is redundant.
13 (Other Augmentation works)	This clause contains a requirement to tender in accordance with a relevant guideline. The relevant guideline is Guideline 14 (Provision of services by electricity distributors), which is proposed to be repealed. However, it is noted that the requirement for a distributor to call for tenders on constructions works if it proposes to augment its distribution network in relation to connection services, undergrounding, services to distributors and public lighting services has been retained in clause 5 of the Electricity Distribution Code of Practice. Accordingly, while it is proposed to remove this clause, it is not anticipated this will alter the status quo in terms of what matters must be subject to tender.
14 (Transmission connection asset planning and augmentation)	This clause requires a licensee to be responsible for planning and directing the augmentation of transmission connection assets to assist it to fulfil its obligations under clause 6 (connection services for customers). In circumstances where we are proposing to remove clause 6 because regulation of connections is addressed by Chapters 5 and 5A of the National Electricity Rules, we are also proposing the removal of this clause.
15 (National Metering Identifiers)	This clause requires a licensee to issue a NMI in a manner consistent with obligations under the National Electricity Code (no longer in force). The clause is out of date and the National Electricity Rules provide for market participants to ensure that a connection point has a metering installation and a NMI (NER 7.2.1), accordingly it is proposed to remove this clause.
16 (Provision of information to the retailer of last resort)	This clause provides for the provision by the licensee of information as is necessary for the retailer of last resort framework to properly operate. This clause is proposed to be removed, on the basis that this matter will now be addressed in the Electricity Distribution Code of Practice (clause 25.7).

17 (Approved statements)	This clause provides for approval of a statement of a Licensee's proposed charge and terms and conditions for excluded services. It is considered redundant and proposed to be removed.
18 (Confidentiality)	This clause addresses obligation of confidence. It is proposed to remove this clause on the basis that it is reflecting, in more limited terms, existing obligations on distributors imposed by the Privacy Act 1988.
19 (Statement of Charges)	This clause requires a licensee to provide a retailer with information about distribution charges. This clause is proposed to be removed on the basis that provision of information about charges by distributors to retailers is proposed to be addressed in the Electricity Distribution Code of Practice (clause 8.8).
20 (Cooperation with VENcorp)	This clause requires a licensee to cooperate with VENCorp in the establishment of demand reduction procedures. This clause is redundant, with AEMO having regulatory responsibility for such matters and it is proposed that this clause be removed.
21 (Non-discrimination in conduct of business)	This clause prohibits unreasonable discrimination in the conduct of a distributor's business. It is proposed to be removed on the basis that the Electricity Distribution Code of Practice is proposed to contain provisions pertaining to this matter. Including that a use of system agreement must not unreasonably discriminate (clause 8.7) and a distributor's tendering policy must not unreasonably discriminate (clause 5.3.1)
22 (Compliance with orders, codes and guidelines)	This clause requires compliance by a licensee with various regulatory instruments. New clause 10 addresses compliance with regulatory instruments but is materially different to current clause 22 on account of the following. Firstly, as codes have transitioned to 'codes of practice' made under Part 6 of the Essential Services Commission Act 2001, they are no longer enforced as licence conditions and have therefore been removed from this clause. Secondly, it is not necessary to enforce compliance with orders as a licence condition as compliance will be required by reason of the order itself mandating certain actions or prohibiting certain actions, so that reference to orders has been removed. Thirdly, current clause 22 included a requirement to comply with a price determination, being that instrument previously made by the commission. That has been removed as it is no longer relevant.

23 (standards and procedures)	This clause requires a licensee to participate in the development of standards and procedures and report to the commission on its performance against applicable standards and procedures. This clause is proposed to be removed on the basis that these obligations will be addressed in the Electricity Distribution Code of Practice (clause 24). It is noted that the directions issued by the commission in its decision 'Timely negotiated electricity connections: Final Decision, 16 March 2021' are proposed to be preserved despite the removal of this clause by means of a transitional requirement in Schedule 5 of the Electricity Distribution Code of Practice.
24 (Regulatory audits)	This clause requires a licensee to appoint an independent auditor to conduct an audit. It is proposed to remove this clause on the basis that independent reviews (including regulatory audits) will be addressed in the Electricity Distribution Code of Practice (clause 23).
25 (Dispute resolution)	This clause requires a distributor to submit to the commission and implement a scheme for the resolution of disputes. This has been superseded by the requirement that distributors join an approved customer dispute resolution scheme, relevantly, the energy and water ombudsman scheme (s 28 EI Act). It is proposed to remove this clause.
26 (Separate accounts)	This requires a licensee prepare separate accounts for a distribution business. It is proposed to remove this clause given that a comparable requirement is contained in the Australian Energy Regulator's Ring-fencing Guideline (electricity distribution) 2021 (version 3).
27 (Provision of information to the commission)	This clause requires a licensee to provide to the commission information in a form and manner requested by the commission. The obligation supplements more specific requirements in the Electricity Distribution Code of Practice and in the Compliance and Reporting Guideline. This clause is proposed to be retained, as amended at new clause 12.
28 (Payment of licence fees)	This clause requires payment of licence fees. New clause 8 retains the obligation to pay a licence fee as determined by the Minister.

29 (Administrator)	This clause provides that if an administrator is appointed under section 34 of the EI Act its functions and powers must be exercised as specified by the commission in the instrument of appointment. This duplicates section 34(4) of the EI Act. It is proposed to remove this clause on the basis it is adequately address in the legislation.
30 (Compliance with laws)	This clause requires compliance with all applicable laws. It is proposed to remove this clause, noting the retention of the obligation to comply with particular instruments including the Electricity Safety Act 1998, National Electricity Law and National Electricity Rules (clause 10).
31 (variation)	This clause provides for variation in accordance with section 29 of the EI Act. Section 29 of the EI Act in turn provides for variation in accordance with the procedures set out in a licence. Proposed new clause 4 deals with notice requirements for variation. It is noted that, in order to achieve consistency, this clause mirrors the variation clause proposed for retail licensees.
32 (Transfer of licence)	This clause provides for transfer of a licence in accordance with section 31 of the EI Act. This clause has been retained, noting it merely signposts an existing legislative process. Separately, a new clause is proposed to require notification in the event of a change of control, see proposed new clause 9.
33 (Communications)	This clause provides the requirements for communications relating to the licensee. Proposed new clause 2 now contains the notice requirements which have been updated for consistency with requirements in the Evidence Act 2008 and the Electronic Transactions (Victoria) Act 2000.
33 (Full retail competition, in Powercor Docklands licence)	This clause provides for a licensee to be ready to facilitate the introduction of full retail competition. It is proposed to be removed on the basis it is redundant.