



## *Express law* fast track information for clients

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### **Amendment to arrangements for the national electricity market and electricity distribution businesses**

**Key amendments to national electricity legislation have established an open access regime for electricity distribution networks within the national framework governed by national institutions, similar to that which has operated since 2005 for electricity transmission networks. The amendments include a number of other important initiatives.**

These amendments, to the National Electricity Law (NEL), a schedule to the *National Electricity (South Australia) Act 1996* (SA), and the National Electricity Rules (the Rules) made under that Act, commenced operation on 1 January 2008 (see the [National Electricity \(South Australia\) \(National Electricity Law—Miscellaneous Amendments\) Amendment Act 2007 \(SA\)](#) and Ch 6 of the Rules).

#### ***Legislative framework for electricity market***

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The NEL and the Rules are applied as law by the Commonwealth in the offshore area (see the *Australian Energy Market Act 2004*) and are applied as law by each other state and territory (other than Western Australia and the Northern Territory).

The key institutions with functions under the NEL are:

- the Australian Energy Regulator (AER) (established by the *Trade Practices Act 1974* and responsible for economic regulation of the relevant networks and enforcement)
- the Australian Energy Market Commission (a South Australian statutory authority responsible for rule making and market development)
- the National Electricity Market Management Company (NEMMCO, a corporation that is the market operator but which is proposed to be replaced in 2009 by an Australian Energy Market Operator).

#### ***Background***

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Transmission networks transport electricity from generators to distribution networks using high-voltage transmission lines. Although electricity transported at high voltage minimises its loss when transmitting over long distances, it cannot be safely used by business and residential customers. So distribution networks move electricity from transmission networks to those customers.

Since 1998 a wholesale exchange has operated for participants in the National Electricity Market, and from 2005 electricity transmission networks have operated under an open access regime regulated by the national institutions.

The reforms that commenced on 1 January 2008 establish an open access regime for electricity distribution networks (in addition to electricity transmission networks) within the national framework governed by national institutions. Prior to the reforms, electricity distribution networks' revenue was regulated by state and territory regulators.

### ***Outline of reforms***

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The key areas for change resulting from the amendments are as follows:

- There are **two available forms of regulation** for regulating the revenue of monopoly electricity distribution network service providers.
- The AER has **new information-gathering powers**.
- The Australian Competition Tribunal will conduct **merits review** of specified regulatory decisions.
- **Access disputes** will be resolved by the AER under a procedure broadly consistent with that in the *Trade Practices Act 1974*.
- The **decision-making framework** for the AER in carrying out regulatory decisions for the amount of revenue a distribution business may earn has changed so that there is scope for the Rules to determine the ambit of the AER's discretion.
- The AER will be able to publish reports on the **financial and operational performance** of transmission and distribution network service providers.

AGS was closely involved with the Department of Resources, Energy and Tourism in formulating the reforms, with two of its officers outposted for the duration of the project.

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