

Regulated terms for connection of distributed generation

Schedule 2 of the Electricity Governance (Connection of Distributed Generation) Regulations 2007

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General

1 Overview of regulated terms

This schedule sets out the regulated terms for connection of distributed generation that apply to the connection of distributed generation that is connected in accordance with regulation 9 and Schedule 1.

2 Interpretation

These regulated terms must be interpreted—

- (a) in light of the purpose of these regulations; and
- (b) so as to give business efficacy to the relationship between the distributor and the generator created by these regulations.

3 General obligations

- (1) The distributor and the generator must perform all obligations under these regulated terms in accordance with connection and operation standards (where applicable).
- (2) The distributor and the generator must each construct, interconnect, operate, test, and maintain their respective equipment in accordance with—
 - (a) these regulated terms; and
 - (b) connection and operation standards (where applicable); and
 - (c) the rules.
- (3) The generator must, subject to sub clause (2), construct, interconnect, operate, test, and maintain its distributed generation in accordance with—
 - (a) reasonable and prudent operating practice; and
 - (b) the applicable manufacturer's instructions and recommendations.
- (4) The distributor and generator must each be fully responsible for the respective facilities they own or operate.
- (5) The distributor and generator must each ensure that their respective facilities adequately protect each other's equipment, personnel, and other persons and their property, from damage and injury.
- (6) The generator must comply with any conditions that were specified by the distributor under clause 18 of Schedule 1 as conditions of the connection (or, to the extent that those conditions were the subject of a dispute under clause 20(3) of that schedule, or of negotiation during the period for negotiation of the connection contract, the conditions or other measures as finally resolved or negotiated).

Meters

4 Installation of meters and access to metering information

- (1) The generator must ensure that 1 or more metering installations are installed that-
 - (a) separately record any inflows of electricity from the distribution network and any electricity injected into the distribution network; and
 - (b) fully comply with the rules. The generator must provide to the distributor, at the distributor's request, the interval data and cumulative data recorded by those metering installations.
- (2) The distributor may require that reactive metering be installed for meters that are category 2 or above (as defined in the rules).
- (3) The distributor's requirements in respect of metering measurement and accuracy must be consistent with the rules.

Access

5 Right of distributor to access generator's premises

- (1) The generator must provide the distributor, or a person appointed by the distributor, with safe and unobstructed access onto the generator's premises at all reasonable times—
 - (a) for the purpose of installing, testing, inspecting, maintaining, repairing, replacing, operating, reading, or removing any of the distributor's equipment and for any other purpose related to these regulated terms; and
 - (b) for the purpose of verifying metering information; and
 - (c) for the purpose of ascertaining the cause of any interference to the quality of delivery services being provided by the distributor to the generator; and
 - (d) for the purpose of protecting, or preventing danger or damage to, persons or property; and
 - (e) for the purposes of reconnecting or disconnecting the distributed generation; and
 - (f) for any other purpose relevant to either or both of—
 - (i) the distributor connecting distributed generation in accordance with connection and operation standards;
 - (ii) maintaining the integrity of the distribution network.
- (2) The rights of access conferred by these regulated terms are in addition to any right of access the distributor may have under any statute or regulation or contract.

6 Process if distributor wants to access generator's premises

- (1) The distributor must exercise its right of access under clause 5 by,—
 - (a) wherever practicable, giving to the generator reasonable notice of its intention and of the purpose for which it will exercise its right of access; and
 - (b) causing as little inconvenience as practicable to the generator in carrying out its work; and
 - (c) observing reasonable and prudent operating practice at all times; and
 - (d) observing any reasonable security or site safety requirements that are made known to the distributor by the generator.
- (2) However, the distributor may take all reasonable steps to gain immediate access where it reasonably believes there is immediate danger to persons or property.

7. Distributor must not interfere with generator's equipment

- (1) The distributor must not interfere with the generator's equipment without the prior written consent of the generator.
- (2) However, if emergency action has to be taken to protect the health and safety of persons, or to prevent damage to property, the distributor—
 - (a) may interfere with the generator's equipment without prior written consent; and
 - (b) must, as soon as practicable, inform the generator of the occurrence and circumstances involved.

8 Generator must not interfere with, and must protect, distributor's equipment

- (1) The generator must not interfere with the distributor's equipment without the prior written consent of the distributor.
- (2) However, if emergency action has to be taken to protect the health and safety of persons, or to prevent damage to property, the generator—
 - (a) may interfere with the distributor's equipment without prior written consent; and
 - (b) must, as soon as practicable, inform the distributor of the occurrence and circumstances involved.
- (3) The generator must protect the distributor's equipment against interference and damage.

9 Obligation to notify if interference with distributor's equipment or theft of electricity is discovered

- (1) If the distributor or the generator discover evidence of interference with the distributor's equipment, or evidence of theft of electricity, the party discovering the interference or evidence must notify the other party within 24 hours.

- (2) If interference with the distributor's equipment at the generator's installation is suspected, the distributor may itself carry out an investigation and present the findings to the generator within a reasonable period.
- (3) The cost of the investigation—
 - (a) must be borne by the generator if it is discovered that interference by the generator, or by its subcontractors, agents, or invitees, has occurred, or if the interference has been by a third party, and the generator has failed to provide reasonable protection against interference to the distributor's equipment; and
 - (b) must be borne by the distributor in any other case.

Interruptions and disconnections

10 General rule about interruptions

The distributor must make reasonable endeavors to ensure that the connection of the distributed generation is not interrupted. **Circumstances allowing distributor to temporarily disconnect distributed generation**
Despite clause 10, the distributor may interrupt the connection service, or curtail either the operation or output of the generation, or both, and may temporarily disconnect the distributed generation in any of the following cases:

- a. in accordance with the distributor's congestion management policy;
- b. if reasonably necessary for planned maintenance, construction, and repairs on the distribution network;
- c. for the purpose of protecting, or preventing danger or damage to, persons or property;
- d. if the generator fails to allow the distributor access as required by clause 5;
- e. if the generator modifies its distributed generation, without prior authorisation from the distributor, in such a way that it has a material effect on the generator's injection of electricity into the network;
- f. in accordance with clause 13 (adverse operating effects).

11 Obligations if distributed generation temporarily disconnected by distributor

- (1) The distributor must make reasonable endeavors to—
 - a. notify the generator before any interruption under clause 11; and
 - b. co-ordinate with the generator to minimise the impact of the interruption.
- (2) The distributor and the generator must co-operate to restore the distribution network and the distributed generation to a normal operating state as soon as is reasonably practicable following temporary disconnection.
- (3) In the case of a forced outage, the distributor must, subject to the need to restore the distribution network, make reasonable endeavors to restore service to the generator and to advise the generator of the expected duration of the outage.

12 Adverse operating effects

- (1) The distributor must notify the generator as soon as is reasonably practicable if it reasonably considers that operation of the distributed generation may—
 - a. adversely affect the service provided to other distribution network customers; or
 - b. cause damage to the distribution network or other facilities; or
 - c. present a hazard to any person.
- (2) If, after receiving that notice, the generator fails to remedy the adverse operating effect within a reasonable time, the distributor may disconnect the generation upon reasonable notice (or without notice when reasonably necessary in the event of an emergency or hazardous situation).

13 Interruptions by generator

- (1) This clause applies to any connected distributed generation above 10 kW in total. **The generator must notify the distributor of any planned outages and** must make reasonable endeavors to advise the distributor of any event that affects network operations.
- (2) The generator must make reasonable endeavors to notify the distributor of the interruption and to co-ordinate with the distributor to minimise the impact of the interruption.

14 Permanent disconnections

- (1) Despite clause 10, the distributor may permanently disconnect distributed generation in the following circumstances:
 - a. on receipt of a request from a generator:
 - b. without notice, if a generator has failed to comply with either the connection or safety requirements of the distributor and there is an ongoing risk to persons or property.
 - c. without notice, on receipt of the registry inactive status with reason "De-energised—ready for decommissioning" where the trader has de-energised a site, attempted to recover the meters, and updated the registry to that status:
 - d. on at least 10 business days' notice of intention to disconnect, if—
 - (i) the generator has not injected electricity into the network at any time in the preceding 12 months; and
 - (ii) the distributor has not been notified by the generator of reasons for the non-injection; and
 - (iii) the distributor has reasonable grounds for believing that the generator has ceased to operate the distributed generation.
- (2) If the point of connection is to remain as a consumption point, where applicable the generator must cancel any seller contracts and ensure the trader decommissions the embedded generation network service point with the reconciliation manager. The site must revert to a standard ICP.

- (3) If the point of connection is to be disestablished in its entirety, a permanent disconnection must be performed by means of isolation of generation by removal of all electrical connections to distributor's lines. The distributor must notify the generator within 2 business days of the work having been completed. Where applicable, the generator must cancel any seller contracts, ensure that the retailer decommissions the embedded generation network service point with the reconciliation manager, and that the retailer arranges decommissioning of the ICP.
- (4) Once having the status of decommissioned on the registry, the ICP must not be used again. The process for new connections in Part 1 or 2, as the case may be, of Schedule 1 must be followed if generation is to be connected again at this point of connection.
- (5) Both the distributor and the generator (through notification to a retailer where selling to a retailer) must ensure that the registry is correctly updated throughout this process in accordance with the rules.

Confidentiality

15 Meaning of confidential information In this schedule,—

confidential information means all data and other information of a confidential nature provided by one party (**A**) to the other (**B**) under these regulated terms, but excludes—

- (a) information known to B before the date it was provided to B by A and that was not obtained directly or indirectly from A;
- (b) information obtained bona fide from another person who is in lawful possession of the information and who did not acquire the information directly or indirectly from A under an obligation of confidence.

16 General rule about confidentiality

- (1) Each party must preserve the confidentiality of confidential information, and must not directly or indirectly reveal, report, publish, transfer, or disclose the existence of any confidential information, except as permitted in sub clause (2).
- (2) Each party must only use confidential information for the purposes expressly permitted by these regulated terms.

17 When confidential information can be disclosed

Either party may disclose confidential information in any of the following circumstances:

- a. if the generator and distributor agree in writing to the disclosure of information;
- b. if disclosure is expressly provided for under these regulated terms;
- c. if, at the time of receipt by the party, the confidential information is in the public domain or if, after the time of receipt by either party, the confidential information enters the public domain (except where it does so as a result of a breach by either party of its obligations under this

- clause or a breach by any other person of that person's obligation of confidence):
- d. if either party is required to disclose confidential information by—
 - (i) any statutory or regulatory obligation, body, or authority; or any judicial or
 - (ii) arbitration process; or
 - (iii) the regulations of any stock exchange upon which the share capital of either party is from time to time listed or dealt in; or
 - (iv) the rules:
 - e. if the confidential information is released to the officers, employees, directors, agents, or advisors of the party, provided that—
 - (i) the information is disseminated only on a need-to-know basis; and
 - (ii) recipients of the confidential information have been made fully aware of the party's obligations of confidence in relation to the information; and
 - (iii) any copies of the information clearly identify it as confidential information:
 - f) if the confidential information is released to a bona fide potential purchaser of the business or any part of the business of a party, subject to that bona fide potential purchaser having signed a confidentiality agreement enforceable by the other party in a form approved by that other party, and that approval may not be unreasonably withheld.

18 Disclosures by employees, agents, etc

To avoid doubt, a party is responsible for any unauthorised disclosure of confidential information made by that party's officers, employees, directors, agents, or advisors.

Pricing

19 Pricing Principles

Connection charges that are payable by the generator must be determined in accordance with the pricing principles set out in Schedule 4.

Liability

20 General rule about liability

- (1) If a distributor or generator breaches any of the regulated terms (whether by act or omission), that party is liable to the other.
- (2) The generator's and the distributor's liability to each other is limited to damages for any direct loss caused by that breach.
- (3) This clause does not limit the liability of either party to pay all charges and other amounts due under these regulations or the regulated terms.

21 Exceptions to general rule about liability

- (1) Neither the distributor nor the generator, nor any of its officers, employees, directors, agents, or advisors, are in any circumstances liable to the other party for—
 - a. any indirect loss, consequential loss (including, but not limited to, incidental or special damages), loss of profit, loss of revenue (except any liability under clause 21(3), loss of use, loss of opportunity, loss of contract, or loss of goodwill; or
 - b. any loss resulting from the liability of the other party to another person; or
 - c. any loss or damage incurred by the other party if, and to the extent that, this results from any breach of the regulated terms or any negligent action.
- (2) The distributor is not liable, except to the extent caused or contributed to by the distributor in circumstances where the distributor was not acting in accordance with the regulations (including these regulated terms), for—
 - (a) any momentary fluctuations in the voltage or frequency of electricity conveyed to or from the distributed generation's point of connection or nonconformity with harmonic voltage and current levels; or
 - (b) any failure to convey electricity to the extent that—
 - (i) the failure arises from any act or omission of the generator or other person, excluding the distributor and its officers, employees, directors, agents, or advisors; or
 - (ii) the failure arises from—
 - (A) a failure to convey or a reduction of injection or supply of electricity into the distribution network; or
 - (B) an interruption in the conveyance of electricity in the network, at the request of the system operator or under a nationally or regionally co-ordinated response to an electricity shortage; or
 - (iii) the failure arises from any defect or abnormal conditions in or about the generator's premises; or
 - (iv) the distributor was taking any action in accordance with the regulations or regulated terms; or
 - (v) the distributor was prevented from making necessary repairs (for example, by police at an accident scene).
- (3) The generator is not liable for—
 - (a) any failure to perform any obligation under these regulated terms caused by the distributor's failure to comply with the obligation; or
 - (b) any failure to perform any obligation under these regulated terms arising from any defect or abnormal conditions in the distribution network.

22 Limits on liability

- (1) The maximum total liability of each party, as a result of a breach of these regulated terms, must not in any circumstances exceed, in respect of a single event or series of events arising from the same event or circumstance, the lesser of—
 - a. the direct damage suffered or the maximum total liability that the party bringing the claim against the other party has at the time that the event (or, in the case of a series of related events, the first of such events) giving rise to the liability occurred; or (b) \$1,000 per kW of installed capacity up to a maximum of \$5 million.

23 Liability clauses do not apply to fraud, wilful breach, and breach of confidentiality

The exceptions in clause 22, and the limits on liability in clause 23, do not apply—

- a. if a distributor or generator, or any of its officers, employees, directors, agents, or advisors, has acted fraudulently or wilfully in breach of these regulated terms; or
- b. to a breach of confidentiality under clause 17 by either party.

24 Indemnity

- (1) Each party (the indemnifying party) must indemnify the other for damages claimed by third parties to the extent that the loss is caused by a breach of these regulated terms by the indemnifying party, where the loss is materially caused by any action or omission of the indemnifying party.
- (2) The indemnity in this clause is subject to the limits on liability specified in clauses 21 to 24.

25 Force majeure

- (1) A failure by either party to comply with or observe any provisions of these regulated terms (other than payment of any amount due) does not give rise to any cause of action or liability based on default of the provision if—
 - a. the failure is caused by—
 - (i) any event or circumstance occasioned by, or in consequence of, any act of God, being an event or circumstance—
 - (A) due to natural causes, directly or indirectly and exclusively without human intervention; and
 - (B) that could not reasonably have been foreseen or, if foreseen, could not reasonably have been resisted;
 - (ii) a strike, lockout, other industrial disturbance, act of public enemy, war, blockade, insurrection, riot, epidemic, aircraft, or civil disturbance;
 - (iii) the binding order or requirement of any court, government, local authority, the Rulings Panel, or the Electricity Commission, and the failure is not within the reasonable control of the affected party;

- (iv) the partial or entire failure of supply or availability of electricity to the distribution network;
 - (v) any other event or circumstance beyond the control of the party invoking this clause; and
 - b. the party could not have prevented such failure by the exercise of the degree of skill, diligence, prudence, and foresight that would reasonably and ordinarily be expected from a skilled and experienced distributor or generator engaged in the same type of undertaking under the same or similar circumstances in New Zealand at the time.
- (2) If a party becomes aware of a prospect of a forthcoming force majeure event, it must notify the other party as soon as is reasonably practicable of the particulars of which it is aware.
- (3) If a party invokes this clause, it must as soon as is reasonably practicable notify the other party that it is invoking this clause and of the full particulars of the force majeure event relied on.
- (4) The party invoking this clause must—
 - (a) use all reasonable endeavors to overcome or avoid the force majeure event; and
 - (b) use all reasonable endeavors to mitigate the effects or the consequences of the force majeure event; and
 - (c) consult with the other party on the performance of the obligations referred to in paragraphs (a) and (b).
- (5) Nothing in sub clause (4) requires a party to settle a strike, lockout, or other industrial disturbance by acceding, against its judgement, to the demands of opposing parties.