

Australian Capital Territory

Utilities (Technical Regulation) (Regulated Utility Coordination Code) Approval 2016

Disallowable instrument DI2016–20

made under the

Utilities (Technical Regulation) Act 2014, section 14 (Technical codes—approval)

1 Name of instrument

This instrument is the *Utilities (Technical Regulation) (Regulated Utility Coordination Code) Approval 2016*.

2 Commencement

This instrument commences on the day after it is notified.

3 Determination of code

I determine the Regulated Utility Coordination Code set out in the schedule.

4 Public access

This Code is available for inspection by the public between 8:30 am and 4:30 pm, from Monday to Friday except for public holidays, at Access Canberra at South Building, Dame Pattie Menzies House, 16 Challis Street Dickson ACT. Copies of the Code can be also made at Access Canberra. Electronic copies of the Code are available on the Access Canberra website at https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/2203/~/~water-and-energy-utilities-technical-regulation. No charge will apply.

Simon Corbell MLA
Minister for the Environment and Climate Change

08 March 2016



Australian Capital Territory

Regulated Utility Coordination Code

February 2016

TABLE OF CONTENTS

1 INTRODUCTION.....2

1.1 Technical Codes2

1.2 Regulated Utility to Comply with Technical Codes2

2 PURPOSE AND APPLICATION OF THIS CODE2

2.1 Purpose2

2.2 Application2

2.3 Effect of Prescription of Regulated Utility2

3 DICTIONARY3

4 REGULATED UTILITY COORDINATION3

4.1 Coordination among Regulated Utilities.....3

4.2 Technical Regulator’s intervention4

DICTIONARY6

1 INTRODUCTION

1.1 Technical Codes

The Regulated Utility Coordination Code (this Code) is a technical code under part 3 of the *Utilities (Technical Regulation) Act 2014* (the Act).

1.2 Regulated Utility to Comply with Technical Codes

Under section 14 of the Act, the Minister may approve a technical code as recommended by the technical regulator. If a regulated utility fails to comply with this Code and is negligent about whether this Code is complied with, the offence provision under section 16 of the Act will apply.

2 PURPOSE AND APPLICATION OF THIS CODE

2.1 Purpose

The purpose of this Code is to clarify the responsibility of regulated utilities and to facilitate coordination amongst those regulated utilities in relation to:

- (1) each regulated utility network; and
- (2) any light rail regulated utility network.

2.2 Application

- (1) This Code applies to regulated utilities under the Act.
- (2) Under the *Utilities (Technical Regulation) (Light Rail—Regulated Utility Service) Regulation 2016*, the Minister determined that a light rail regulated utility network is a prescribed regulated utility service for the purposes of section 10 of the Act.

2.3 Effect of Prescription of Regulated Utility

- (1) A light rail regulated utility service prescribed under section 10 of the Act is subject to the obligations, rights and entitlements under the Act, unless otherwise limited by a regulation, operating certificate or direction of the technical regulator.
- (2) Regulated utilities that provide prescribed regulated utility services must exercise functions to protect networks and facilities under part 5 of the Act. Part 5 of the Act includes criminal offences that apply to persons who unlawfully interfere with regulated utility networks and facilities.

3 DICTIONARY

The dictionary at the end of this Code is part of this Code.

4 REGULATED UTILITY COORDINATION

In this clause, **proposing regulated utility** means a regulated utility whose design, construction, commission, operation or maintenance affects or could affect the existing or future design, construction, commission, operation or maintenance of another regulated utility service.

In this clause, **affected regulated utility** means a regulated utility that is or could be affected by the proposal of a proposing regulated utility.

4.1 Coordination among Regulated Utilities

- (1) If a proposing regulated utility proposes the design, construction, commissioning, operation or maintenance of its regulated utility network or any other works (collectively the relevant works) that affects or could affect the approved design or existing or future construction, commissioning, operation or maintenance of another regulated utility network, the proposing regulated utility must:
 - (a) before undertaking any of the relevant works, notify the affected regulated utility in writing of the relevant works; and
 - (b) not undertake the relevant works until the affected regulated utility and proposing regulated utility (the relevant utilities) have agreed on the undertaking of the relevant works, or a direction has been issued under subclause 4.2.
- (2) If an affected regulated utility is of the opinion that a proposing regulated utility's relevant works affects or could affect the approved design or existing or future construction, commissioning, operation or maintenance of its own regulated utility network then:
 - (a) the affected regulated utility must notify the proposing regulated utility and the technical regulator in writing of its concerns with the relevant works as soon as practicable in the circumstances; and
 - (b) the relevant utilities must meet as soon as possible to discuss the relevant works and attempt to agree on resolutions to the concerns with the relevant works as raised by the affected regulated utility (where such agreement may include the implementation of asset protection zones).
- (3) For the purposes of determining whether relevant works affect or could affect the approved design, or existing or future construction, commissioning,

operation or maintenance of another regulated utility network, regard must be had to any policy or procedure established and published by the affected regulated utility that sets out any of the following:

- (a) procedures that need to be followed by third parties in order to obtain clearance to undertake works that are proximate to or may otherwise effect the relevant regulated utility network;
- (b) precautions that must be taken when working on, near or adjacent to the relevant regulated utility network;
- (c) any control or exclusion zones that apply to works near, or adjacent to, the relevant regulated utility network; and
- (d) relevant criteria that would prohibit work within established control or exclusion zones.

4.2 Technical Regulator's intervention

- (1) If the proposing regulated utility and the affected regulated utility do not reach agreement under sub-clause 4.1 within 30 working days from the written notification under sub-clause 4.1(1)(a) or 4.1(2)(a), the proposing regulated utility and/or the affected regulated utility may seek a recommendation from the technical regulator in writing, by clarifying:
 - (a) the details of the proposal by the proposing regulated utility;
 - (b) the details of the affected regulated utility service; and
 - (c) issues that are not agreed between the proposing regulated utility and the affected regulated utility.
- (2) Once the proposing regulated utility and/or the affected regulated utility seek a recommendation from the technical regulator as contemplated under subclause 4.2(1), the technical regulator must review the relevant proposal from the proposing regulated utility and its effect on the existing affected regulated utility network.
- (3) After the review of the relevant proposal, the technical regulator must give a recommendation to both the proposing regulated utility and the affected regulated utility within 30 working days from the notification in subclause 4.2 (1).
- (4) Within 15 working days of receiving the technical regulator's recommendation under sub-clause 4.2(3), the proposing regulated utility and the affected regulated utility must either:
 - (a) adopt the technical regulator's recommendation, and notify the technical regulator of such adoption; or
 - (b) submit to the technical regulator a rejection or modification of the technical regulator's recommendation in writing.
- (5) Within 30 working days from the date of a rejection or modification in subclause 4.2(4)(b), the technical regulator must give a direction to the proposing regulated utility and the affected regulated utility in relation to the relevant

proposal.

- (6) The proposing regulated utility and the affected regulated utility must comply with the technical regulator's direction.
- (7) The technical regulator may charge the proposing regulated utility and/or the affected regulated utility seeking a recommendation from the technical regulator on a cost recovery basis.

DICTIONARY

- (1) **Act** means the *Utilities (Technical Regulation) Act 2014*.
- (2) **approved design** means a design for the construction of a regulated utility network that has been approved under either or both the *Planning and Development Act 2007* (ACT) or the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth), as required.
- (3) **asset protection zone** means an area where any or all of the network assets of the regulated utility are protected from interference and must not be interfered with by network assets of other regulated utilities.
- (4) **light rail regulated utility** means a regulated utility that provides a regulated utility service prescribed by the *Utilities (Technical Regulation) (Light Rail—Regulated Utility Service) Regulation 2016* under section 10 of the Act. Under the Regulation, a light rail regulated utility is a person who provides a service that is a light rail regulated utility service. A light rail regulated utility service is the supply of electricity from a light rail regulated utility network.
- (5) **light rail regulated utility network** means infrastructure that consists of: an electricity network to supply power to rolling stock and associated infrastructure; substations and facilities to supply and regulate power to the network; and any electrical zone related to the effect of stray current or the management of the effect of electrical current, such as cathodic protection. For the avoidance of doubt, it includes rail tracks but does not include rolling stock.
- (6) **Minister** means the Minister responsible for the Act.
- (7) **operating certificate** means a certificate under part 6 of the Act.
- (8) **prescribed regulated utility service** means a regulated utility service prescribed under section 10 of the Act.
- (9) **regulated utility** is as defined under part 2 of the Act.
- (10) **technical code** means a code approved by the Minister under part 3 of the Act.
- (11) **technical regulator** is as defined under part 9 of the Act.
- (12) **working day** means a day that is not a Saturday, Sunday or a public holiday in the Australian Capital Territory.