

ELECTRICITY SUPPLY INDUSTRY ACT 1995**MINISTERIAL NOTICE UNDER SECTION 36**

To: Hydro-Electric Corporation
4 Elizabeth Street
HOBART TAS 7000

Copy to: Office of the Tasmanian Energy Regulator
5th Floor
111 Macquarie Street
HOBART TAS 7000

After consulting with the Hydro-Electric Corporation, the Treasurer gives this notice under section 36 of the *Electricity Supply Industry Act 1995*, establishing principles to be followed by the Hydro-Electric Corporation in relation to:

- (a) the exercise of certain rights the Corporation has in respect of the bidding of Basslink; and
- (b) the making available by the Corporation of certain inter-regional revenues to which the Corporation is entitled arising from the operation of Basslink.

1 Interpretation

1.1 In this notice, unless the contrary intention appears:

“**Australian Competition and Consumer Commission**” has the meaning given in the ESI Act;

“**Basslink**” has the meaning given in the ESI Act;

“**BSA**” means the Basslink Services Agreement between BPL and Hydro Tasmania originally made on 29 June 2000, as novated to BPL by a Novation Agreement dated 21 December 2000 and amended and restated pursuant to a Basslink Amendment and Restatement Deed dated 29 November 2002 and re-signed for evidentiary purposes on 29 November 2002;

“**bid**” means a *network dispatch offer* (as defined in the Rules) in relation to Basslink;

“**BPL**” means Basslink Pty Limited (ABN 52 090 996 231) of Level 12, 356 Collins Street, Melbourne, Victoria;

“**Rules**” means the National Electricity Rules (as defined in the ESI Act);

“**ESI Act**” means the *Electricity Supply Industry Act 1995*;

“**Hydro Tasmania**” means the Hydro-Electric Corporation;

“instruct” in respect of a bid means to exercise any rights under the BSA to:

- (a) make, revise or amend; or
- (b) request the making, revising or amending of; or
- (c) to control, approve or direct the content of,

the bid;

“IRR products” means the units of southward IRRs as defined by Hydro Tasmania in the compliance plan contemplated by section 37 of the ESI Act;

“Minister” means the Minister of the Crown for the time being administering the ESI Act and includes any Minister of the Crown for the time being acting for and on behalf of the first mentioned Minister;

“over-the-counter sales” means private commercial arrangements (long or short term) negotiated between Hydro Tasmania and third parties under which some or all of the southward IRRs are paid directly to the third party or are used as a component of another risk mitigation instrument;

“price band” means a *price band* (as defined in the Rules);

“Regulator” has the meaning given in the ESI Act;

“Relevant Division” means Division 3 of Part 3 of the ESI Act (Special provisions relating to Hydro-Electric Corporation);

“southward IRRs” means any moneys that:

- (a) are payable to Hydro Tasmania under the BSA; and
- (b) are calculated by reference to, or relate to, moneys received or receivable under the Rules in respect of southward flows by means of Basslink;

“subsidiary” has the meaning given in the ESI Act; and

“trading interval” means a *trading interval* (as defined in the Rules).

1.2 A reference in this notice to:

- (a) a negative bid in respect of a trading interval means a bid which specifies a negative price with a non-zero power delivery range for any price band for that trading interval;
- (b) a positive bid in respect of a trading interval means a bid which specifies a positive price with a non-zero power delivery range for any price band for that trading interval;

- (c) southwards flow in respect of Basslink means a power flow across Basslink from Victoria to Tasmania, and northwards flow means a power flow across Basslink in the other direction;
- (d) a law includes regulations and other instrument under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) a document (including these Principles) includes any variation or replacement of it; and
- (f) BPL includes a reference to BPL's administrators, successors, substitutes (including persons taking by novation) and assigns.

1.3 The footnotes in this notice do not form part of it, are for information only and do not affect the interpretation of this notice.

2 Specified agreement

The BSA is specified for the purposes of section 36(1) of the ESI Act.

3 Principles to be followed in relation to Basslink transport bidding

3.1

- (a) Hydro Tasmania must not instruct BPL to submit a negative bid which applies to power flows across Basslink in either direction or otherwise agree to BPL making a negative bid in either direction for the purpose of producing counter-priced flows.
- (b) In the event that Hydro Tasmania instructs BPL to submit a negative bid which applies to flows across Basslink, it must only be in appropriate circumstances, which include the following:
 - (i) where mainland transmission constraints are causing Basslink northerly flow to be reduced.

3.2 In the event that Hydro Tasmania instructs BPL to submit a positive bid which applies to southward flows across Basslink, it must only be in appropriate circumstances, which include the following:

- (a) technical (including environmental) reasons associated with operating Basslink, for example, to prevent Basslink from rapid and multiple switches in direction;
- (b) to provide for the recovery of any short-run marginal costs incurred in operating Basslink; and
- (c) to preserve Basslink's dynamic rating should the southward flow limit of Basslink rise above the level that would interfere with the dynamic rating of Basslink.

- (d) to ensure compliance with the National Electricity Rules where a negative northward bid has been made under principle 3.1.

3.3 If Hydro Tasmania instructs BPL to make a negative bid in either direction or a positive bid which applies to southward flows, it must publicly disclose the reason for doing so shortly after each event. Notification of Hydro Tasmania's instructions to BPL may include, but is not limited to, publication on a web site.

3.4 Principles 3.1-3.3 will apply once Basslink has entered commercial service and are subject to variation or revocation following review in accordance with principle 3.5.

3.5 The Minister will review the appropriateness of principles 3.1-3.3 when he or she considers it necessary to do so. Key issues that would be considered in reviews under this principle include:

- (a) the development of on-island generation competition in Tasmania and the market position of Hydro Tasmania;
- (b) the development of commercial arrangements for southward IRRs;
- (c) developments in relation to the bidding of market network services or developments in relation to the Rules more generally; and
- (d) any unintended consequences of the implementation of these principles that impact adversely on the welfare of consumers in Tasmania.

4 Principles to be followed in relation to Inter-Regional Products

4.1 Hydro Tasmania must make available the southward IRRs by way of over-the-counter sales.

4.2 Hydro Tasmania is to:

- (a) publish on its website high-level information on inter-regional products and pricing,
- (b) provide a semi-annual confidential report to the Minister on contract market activity and the development of the inter-regional market, and
- (c) publish on its website a semi-annual public report on inter-regional trading.

5 Compliance plan

5.1 The date by which Hydro Tasmania must prepare and provide a draft compliance plan to the Minister under section 37 of the ESI Act is 31 March.

6 Terms of reference and objectives for the Regulator

- 6.1 The functions of the Regulator under the ESI Act in respect of the Relevant Division are to monitor and enforce the compliance of Hydro Tasmania with section 37 of the ESI Act.
- 6.2 The following terms of reference and objectives apply to the Regulator in performing the functions referred to in 6.1 and in administering the Relevant Division:
- (a) the Regulator must establish guidelines for dealing with the information provided to it under the Relevant Division and any compliance plan. The guidelines should indicate which items of information must be treated as confidential in accordance with section 16 of the ESI Act and which may be published;
 - (b) the Regulator should establish processes which are transparent and accessible;
 - (c) the Regulator should operate in a "light-handed" manner; and
 - (d) the Regulator should ensure that Hydro Tasmania, the Australian Competition and Consumer Commission, the Minister, retailers and other stakeholders are consulted, where appropriate (including in the preparation of the guidelines referred to in (a)).

7 **Effective date**

This notice takes effect on the day on which it is signed and replaces any previous Ministerial Notice made under section 36 of the *Electricity Supply Industry Act 1995*.

8 **Other matters**

Hydro Tasmania must keep the Minister informed of any proposed amendments to the BSA which might impact on the implementation of the principles established by this notice.



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The Hon. Michael Aird MLC
Treasurer for the State of Tasmania

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4.5.08
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Date