

ELECTRICITY DISTRIBUTOR LEVY

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CONTENTS

- [Preface](#)
- [Executive Summary](#)
- [Important Disclaimer](#)
- [Terminology](#)
- [Effective Date](#)
- [Who is Eligible and When](#)
- [Different Network Prices for Franchise Customers](#)
- [Exemption from the Network Price Increase](#)
- [Interjurisdictional Supply](#)
- [Private Networks and Embedded Generation](#)
- [Further Information](#)

Preface

The 1997-98 State Budget introduced a levy on the State's six Electricity Distributors. To raise the revenue to pay the levy, Electricity Distributors are required to increase their network service charges to large consumers of electricity (those spending approximately \$75,000 on electricity annually) from 29 June 1997. This change in electricity pricing is

confined to customers who are eligible to become contestable in the retail electricity market and therefore have the opportunity to offset the impact of the network charges through expected lower negotiated energy prices.

This Research and Information Paper has been prepared by NSW Treasury to assist Electricity Distributors implement and administer the Electricity Distributor Levy and the 0.55 cents per kilowatt hour increase in network service charges to eligible customers, arising from amendments to the *Electricity Supply Act 1995*.

Electricity retail suppliers, who in most cases will be billed by the Distributors for network service charges in the first instance, and those electricity customers affected by the increase in network service charges, may also find the information useful.

Recognising that this is the first time such a levy has been developed and applied in Australia, Treasury will be closely monitoring the impact of its introduction from both a fiscal and economic point of view. This will allow Treasury to consider the need for any modification to the current arrangement.

John Pierce
Secretary
NSW Treasury
August 1997

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This publication can be accessed from the Treasury's Office of Financial Management Internet site [<http://www.treasury.nsw.gov.au/>]. For printed copies contact the Publications Officer on Tel: 9228 4426.

[\(Back to contents page\)](#)

Executive Summary

The 1997-98 State Budget introduced an Electricity Distributor Levy. The Levy was facilitated through the passage of the *Electricity Supply Amendment Act 1997*.

The *Electricity Supply Amendment Act 1997* contains two concepts. The first is a Levy applied by the Government to the six NSW licensed distributors. It came into effect on 1 July 1997. The second is an electricity price increase of 0.55 cents per kilowatt hour for customers who are defined as 'eligible'. This came into effect on 29 June 1997, or when the customer will become eligible, whichever is the later.

Eligibility is defined in terms of orders made by the Minister for Energy under Section 92 of the *Electricity Supply 1995* to declare particular customers non-franchise, based on the customer's usage of electricity. A non-franchise customer is able to purchase its electricity from the retail supplier of its choice at freely negotiated prices. From 29 June 1997, these were customers that consumed more than 750 MWh of electricity per annum (or about

\$75,000). This Research and Information Paper explains how the Section 92 orders work and consequently which customers are liable to pay the increase in electricity charges. ([Back to contents page](#))

Important Disclaimer

This document has been published as a guide for the users of electricity services. It is not a definitive statement of law and should not be used or relied upon as a substitute for legal advice or advice of any kind. To the fullest extent permitted by law, neither the Government of New South Wales, nor the servants, employees or agents of them, as the authors, consultants and editors of this document, undertake any duty of care to anyone nor assume or accept any liability or responsibility of any kind to any person who relies on this document and who suffers loss, injury or damage of any kind as a result.

Terminology

The *Electricity Supply Amendment Act 1997* covers two concepts.

The first concept is an Electricity Distributor Levy charged by the Government on licensed electricity distributors. (There are six licensed distributors in NSW). The levy is a lump sum amount (or amounts) determined by the Treasurer using criteria spelt out in the *Electricity Supply Amendment Act*.

The second concept is a network price increase of 0.55 cents per kilowatt hour charged by the distributor to its eligible customers. This is an increase in an existing component of the eligible customer's electricity bill, - the network use of system charge - and will appear within those charges.

Effective Date

The *Electricity Supply Amendment Act 1997* received assent on 25 June 1997.

The *Electricity Supply Amendment Act 1997* [Section 32B(3)] states that the effective commencement date for the Electricity Distributor Levy is 1 July 1997. This commencement date applies to the Levy on distributors only.

The date from which the 0.55 cents per kilowatt hour price increase in network service charges will apply to eligible customers is 29 June 1997. This was specified in an order of the Governor made under Section 43E(5). This aligns with the eligibility of 750 MWh pa customers to enter the competitive retail market and also aligns with weekly settlements in the wholesale market. The price increase should apply from the first customer billing period commencing on or after 29 June 1997 with respect to electricity consumed by the eligible customer on or after 29 June 1997. ([Back to contents page](#))

Who is 'Eligible' and when?

An important attribute of the network services charge price increase is that it applies to 'eligible customers' from the later of:

- a) The date defined above (29 June 1997), or
- b) The date on which they become an 'eligible customer'.

'Eligible customer' (and therefore liability for the network price increase) is defined in the *Electricity Supply Amendment Act 1997* in terms of a customer meeting the criteria for non-franchise status under the orders issued by the Minister for Energy made under Section 92 of the *Electricity Supply Act 1995*. There is a separate Section 92 order for each of the following customer groups:

- i) Customers using more than 40 GWh pa (eligible from 1 October 1996):

refer NSW Government Gazette 27 September 1996,

- ii) Customers using more than 4 GWh pa (eligible from 1 April 1997):

refer NSW Government Gazette 21 March 1997 and,

- iii) Customers using more than 750 MWh pa (eligible from 29 June 1997):
refer NSW Government Gazette 6 June 1997.

Eligibility is determined by one of three criteria:

- a) Actual consumption at the customer's premises exceeds the consumption threshold for eligibility.

This is a matter of fact based upon the metered quantities on the customer's electricity invoices. The distinction between when the customer is 'eligible' and when the customer chooses to become non-franchise is irrelevant for the purpose of applying the network price increase. The network price increase is applied from the date of eligibility.

- b) Where a customer has applied to an Authorised Officer for a determination upon that customer's eligibility, and a determination has been made affirming the customer's eligibility.

Under this criterion, the date of eligibility is the date on which the determination is made in favour of the customer's application.

An example may be where a customer's actual consumption of electricity is below the eligibility threshold but the customer anticipates an increase in consumption. If future consumption is projected to be above the threshold, the customer may apply to have eligibility determined on the basis of projected consumption.

- c) Where the customer gives notice to the electricity distributor that the customer will declare itself non-franchise.

An example of a customer in this category is one who has satisfied the criteria under the Section 92 order to aggregate consumption at several of its sites. In this case the customer becomes eligible in respect to the nominated sites, on the date on which it gives notice to

the distributor of its intention to declare itself non-franchise. The network price increase will apply from that date. The customer is not eligible until such notice is given. Under the terms of the order, the customer must notify each distributor in whose distribution district one or more of the nominated premises are located. The date of eligibility is the date on which the last notice is given to a distributor (not the date on which the customer actually becomes non-franchise).

Where a customer satisfies the criteria under the Section 92 order to aggregate consumption at several of its sites but *does not give notice* to the distributor of its intention to declare itself non-franchise, *the customer is not eligible and therefore not liable for the network price increase*. Liability for the network price increase begins when such notice is given or the site becomes eligible under a subsequent Section 92 order.

Another example may be where the actual metered consumption of electricity is below the eligibility threshold, however, the customer wishes to avail itself of the provisions in the metering rules which allow for possible measurement error of 2% *below* the threshold. Applying this consumption uplift (ie 102 per cent of actual metered consumption) would mean that the site may meet or exceed the eligibility threshold.

The Section 92 orders, read in conjunction with the metering rules set by the Market and System Operator (TransGrid), make no provision for a customer whose metered consumption is above the eligibility threshold (and who is therefore eligible under the first criterion) to reduce the consumption below the eligibility threshold on the grounds of metering error. Consequently, there is no opportunity for a customer in those circumstances to seek to declare itself not eligible and thus avoid payment of the network price increase.

The preceding section of the information paper presents a precis on eligibility and necessarily condenses the contents of the Section 92 orders and the Guidelines on the orders from Director-General of the NSW Department of Energy. To determine eligibility in a particular case, reference must be made to the Section 92 orders and the Director-General's Guidelines. ([Back to contents page](#))

Differential Network Prices for Franchise Customers

Under the terms of the *Electricity Supply Amendment Act*, a customer who is eligible, but remains franchise will still be subject to the network price increase. This may have an impact upon distributors' billing systems in that two scales of network charges may apply to franchise customers with similar broad load/demand characteristics - a scale for franchise customers who are not eligible and a higher scale for franchise customers who are eligible, whether through actual consumption, by a determination or by their own declaration.

Exemption from the Network Price Increase

Where the original terms of an existing tripartite contract are being honoured the tripartite contract may be exempt from the network price increase until the expiry of the contract.

Where a tripartite contract has been renegotiated prior to expiry to reallocate revenue shares between the generator, TransGrid and the distributor, the new contract will be assessed as to the liability for the network price increase. This will be done through Treasury. Sufficient particulars of the contract should be submitted by the distributor to Treasury in order that Treasury can make a recommendation to the Treasurer as to the liability. Information provided will be treated on a commercial in confidence basis.

The network price increase only applies to use of the distributor's transmission and distribution network. Consequently, it does not currently apply to a customer whose premises are connected to TransGrid's transmission system. However, Treasury will closely monitor this situation and consider recommending extension of coverage of the Levy to transmission if eligible customers bypass the distribution network as a means of avoiding payment of the network increase.

Sales from one distributor to another distributor will be exempt from the network price increase. ([Back to contents page](#))

Interjurisdictional Supply

1. Customers located outside NSW connected to a NSW distributor's network.

Customers located outside NSW but connected to a NSW distributor are not be subject to the *NSW Electricity Supply Act*. Consequently, customers located outside NSW will not be declared nor can they declare themselves to be eligible customers under the terms of Section 92 orders made under the *NSW Electricity Supply Act*. Since the increase in network service charges is only applicable to eligible customers, it follows that customers located outside NSW will not be charged the increase in network service charges (except to the extent that NSW law may be subsequently applied to these customers).

2. Commonwealth customers located in NSW and connected to a NSW distributor's network.

Currently, Commonwealth departments and authorities are not subject to State taxes and levies. The network price increase is an increase in the charge for a service (being use of the distributor's network) provided to the Commonwealth customer by the distributor. It is not a tax or a levy on the Commonwealth customer by the NSW Government. Therefore, the network price increase is applicable to an eligible Commonwealth customer.

3. Customers within NSW connected to a NSW distributor's network where the source of energy is outside NSW.

The network price increase applies to eligible customers for the use of the distributor's network irrespective of where the energy being conveyed over that network is sourced. ([Back to contents page](#))

Private networks and Embedded Generation

To the extent that a customer is connected to a distribution network not owned by a licensed

distributor and receives its electricity supply by utilising a licensed distributor's transmission and distribution system, that customer, if eligible, will pay the network price increase.

A customer with embedded generation capability will pay the price increase on *gross* consumption of electricity received from the distributor. The price increase will not apply to energy sold by the customer to the distributor. Therefore, the price increase will *not* be based on the *net* consumption received from the distributor (which would reflect electricity supplied by the customer to the distributor), nor on the customer's total consumption (which would include own-generated electricity).

Further Information

Further information on the application of the 0.55 cents per kilowatt hour price increase in network service charges can be obtained by initially contacting:

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Licensed electricity distributors should contact their Agency Relationship Manager within Commercial Sector Division of NSW Treasury for further information on the Electricity Distributor Levy or on the application of the 0.55 cents per kilowatt hour price increase in network service charges. ([Back to contents page](#))